The legacy of the Ken Penders legal cases and possible copyright infringement lingering over Sega's Sonic the Hedgehog Series

Abstract:

The Sonic the Hedgehog franchise is one of the most successful video game and media franchises in the world with countless video games, movies and tv series spanning four decades, books and lastly comic books in both the United States and abroad. The American Comic Books, which Archie Comics held the rights to from 1993 to 2017 were both an underlooked but respected part of the Sonic Franchise as they became the longest running comic book series based on a licensed property after surpassing the long running Conan the Barbarian Comic Series. However, the copyright mess in the aftermath of a legal saga initiated by aggressive young attorneys at Archie Comics and Sega after former Archie Sonic the Hedgehog Comic book writer Ken Penders filed copyrights registrations on his stories and characters from during his time as writer profoundly changed the media landscape for the Sonic Franchise. Archie Comics settled their lawsuit against Ken Penders in 2013 and rebooted the Archie Sonic Comic Book series shortly afterwards but lawsuits by other creators have hung over the Sonic Franchise ever since, affecting even the recent highly successful Sonic the Hedgehog movies by Paramount. This article will focus on the Archie Sonic related copyright mess, what the legacy of the Ken Penders legal saga means for comic creator rights in the United States historically and as an international comparison of creator rights in Japan and in France where creators enjoy much greater protections for their creations under the respective copyright laws of those two nations than in the United States.

I. Introduction.

II. Background.

III. ARCHIE SONIC AND THE KEN PENDERS LEGAL CASES INVOLVING ARCHIE COMICS AND SEGA

IV. LAWSUITS BY OTHER ARCHIE SONIC COMIC WRITERS OVER THEIR CREATIVE RIGHTS

V. THE IMPACT OF THIS LITIGATION OVER 13 YEARS LATER ON THE SONIC THE HEDGEHOG FRANCHISE AND WHAT THE KEN PENDERS LAWSUIT MEANS FOR COMIC BOOK CREATOR RIGHTS IN THE UNITED STATES UNDER AMERICAN COPYRIGHT LAW.

VI. Conclusion.

I. INTRODUCTION.

Creator rights[1] and intellectual property ownership has long been a contentious issue in the United States, particularly in the realm of American comic books whose writers have historically and do today enjoy considerably worse treatment under the law than their Japanese *Mangka* or European comic book writer counterparts. The legal disputes between comic book writer and artist Ken Penders, Archie Comics Publishing and Sega of America over characters and stories created for the Archie *Sonic the Hedgehog* and *Knuckles the Echidna* comic series exemplifies this tension as American copyright law was put to the test under what had been the unfair treatment of comic book writers by major publishers like Marvel, DC Comics, and Archie Comics for decades. From 2009 to 2013, Ken Penders engaged in a series of legal actions with the copyright office and lawsuits against Archie Comics and Sega Of America, asserting copyright ownership over hundreds of characters and concepts he created during his tenure as a writer and artist for the *Sonic the Hedgehog* comic series from near the beginning of the book until Ian Flynn took over with Sonic Issue #160 in 2006.[2]

These lawsuits culminating in a settlement with Archie Comics and dismissals of claims against Sega, resulted in the reboot of the at the time the entire nearly 20 year old Archie Sonic

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* Ken Penders is an American comic book creator and writer. He worked on the comic series *Sonic the Hedgehog*, published by Archie Comics. He primarily worked on the former side-series *Knuckles the Echidna* before it was cancelled and continued to produce stories and artwork for the Sonic series until 2006. In addition to his work for Archie Comics, He has written and illustrated stories for DC, Marvel, Image and Disney on titles such as *Star Trek: The Next Generation*, *Disney Adventures*, *Savage Sword of Conan*, *Captain Atom*, and *The Green Hornet*. Ken's current projects include *THE LARA-SU CHRONICLES* graphic novel, *The Lost Ones* and *The Republic*.

[2] Ozzie Mejia, *Sonic Frontiers Writer Discusses the Move from Comics to Video Games*, Shacknews (Nov. 3, 2022), https://www.shacknews.com/article/132958/sonic-frontiers-writer-interview.

Comics continuity and raised significant questions about creator rights in work-for-hire arrangements, the scope of copyright protection for derivative works, and the responsibilities of corporate licensees like Sega to ensure their licensed properties retain ownership under one roof. This article, co-written with Ken Penders himself, examines the Ken Penders legal sagas, focusing on their implications for creator rights and their broader impact on Sega's management of the *Sonic the Hedgehog* intellectual property and its lasting legacy on both Sega and the entire American Comic Book industry.

II. BACKGROUND.

Fights over copyrights in the comics medium go back all the way to the 1900s with a 1906 case involving the stripe *Buster Brown* being a major example[3] and there would various other cases involving the copyright laws of that era including *Katzenjammer Kids* in 1914[4]. Timely Comics, which is the modern day Marvel Comics, shifted the books on the profits of *Captain America* when issuing royalty payments to Joe Simon and Jack Kirby who created the character.[5] And in the 1940s, Timely Comics founder Martin Goodman gave the rights to a Captain America film to Republic Pictures without giving any money to Joe Simon and Jack Kirby or even telling them as the former found out about the movie through walking the streets of Baltimore one night during World War II.[6] In continuing with Marvel as an example, Carl Burgos, the original artist on the Human Torch tried to get his copyrights back in the 1960s to the character he created; a process which left him bitter and his daughter not seeing his comic memorabilia until the day he threw it out in the trash after realizing that Marvel Comics had

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[3] *New York Herald Co. v. Star Co.*, 146 F. 204 (1906)
[4] *Star Co. v. Press Publishing Co.*, 162 A.D. 486 (N.Y. App. Div. 1914)
[5] Roy Schwartz, *The Uncanny, Spectacular Story of Martin Goodman, the All-But-Forgotten Founder of Marvel Comics*, IGN (Jul. 19, 2025), https://www.ign.com/articles/the-uncanny-spectacular-story-of-martin-goodman-marvel-comics-founder.
[6] Joe Simon & Jim Simon, *The Comic Book Makers* 71 (1990). The one thing that should be said in Goodman's defense is he did not make any money from Republic Pictures from the rights to Captain America for the film. Instead, he greenlit the movie as an advertisement for the comics.

decided to to bypass his copyrights by creating a new version of the Human Torch character.[7] And Marvel Comics used to have creators "sign over their rights" to their characters as part of signing their paystubs.[8] This culture of creator neglect and publisher centric running of the industry has survived into the present day and is worthy of discussion resulting in various modern day media commentaries published in recent years.[9] However, the focus of this article will be on the legal concept of "work for hire" in copyright law and resulting litigation over "work for hire" creations under the Copyright Act of 1976 when there is a dispute if such a transfer ever took place. The prime example most people are familiar with in this area of copyright law are the *Superman* cases involving the creators of the man of steel in Jerry Siegel and Joe Shuster. Superman copyright dispute dates back all the way to the 1930s.[10] With the Court of Appeals for the Second Circuit recognizing that *Superman* copyrights had been transferred but reversing the lower court on the question of if *Superman* was "work made for hire" under the copyright doctrine of the time which the court found factually dubious.[11]

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[7]Heidi MacDonald, *When Carl Burgos Tried to Sue for the Human Torch*, Comics Beat (Oct. 19, 2012), https://www.comicsbeat.com/when-carl-burgos-tried-to-sue-for-the-human-torch/.

[8] Id.

[9] The current situation today for creators is better than it was in the 40s as publishers are now giving more royalties to their creators and acknowledging some of these historical wrongs, which for the older creators is a big deal as the money is helpful in their old age, but it is not much and as seen by this article about royalties during the current MCU era. Ryan Leston, *Marvel Artist Says Character Royalty Payments for Creators Are 'Bait and Switch'*, IGN (July 20, 2022), https://www.ign.com/articles/marvel-artist-says-character-royalty-payments-for-creators-are-bait-and-switch. This has resulted in a lot of anger from modern day comic creators, see, Cameron Bonomolo, *Comic Artist Dustin Nguyen Slams Marvel Over Pay: "Stop F—ing Creators Over"*, ComicBook.com (Mar. 11, 2025), https://comicbook.com/comics/news/dustin-nguyen-marvel-comics-covers-pay-royalties-creators-dc-comics/. For a history of the industry's treatment of creators and the work for hire legal debate in comics, see, *How Big Companies Keep Creators Poor*, Matttt - Comic & Manga History, YouTube (June 3, 2023), https://www.youtube.com/watch?v=b6y5vrDloS4.

[10]Jerry Siegel, Affidavit of Jerome Siegel (Mar. 1, 1973), https://www.dropbox.com/scl/fi/upl23y0rja31iszg1lla0/Jerry-Siegel-affidavit-1973.pdf?rlkey=3nb41s5t78gyaur6twzm9uyrm&e=2&dl=0.

[11] *Siegel v. Nat'l Periodical Publ'ns, Inc.*, 508 F.2d 909 (2d Cir. 1974).
The more information on the superman lawsuits see *Superman Legal Case*, Comic Book Brain, https://comicbookbrain.com/superman-legal-case.php (last visited July 24, 2025).
and Himanshu Mishra, *The Superman Copyright Conundrum: Balancing Public Domain Access, Corporate Extensions and Posthumous Rights of Authors' Estates*, Bar & Bench (last visited July 24, 2025), https://www.barandbench.com/columns/the-superman-copyright-conundrum-balancing-public-domain-access-corporate-extensions-and-posthumous-rights-of-authors-estates.

The Modern framework for counts as a "work made for hire" comes from the 1976 Copyright Act where a "work made for hire was defined as:

(1) a work prepared by an employee within the scope of his or her employment; or
(2) a work specially ordered or commissioned for use
(i) as a contribution to a collective work,
(ii) as a part of a motion picture or other audiovisual work,
(iii) as a translation,
(iv) as a supplementary work,
(v) as a compilation,
(vi) as an instructional text,
(vii) as a test,
(viii) as answer material for a test, or
(ix) as an atlas,
if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.[12]

This standard has been refined by the United States Supreme Court *Community for Creative Non-Violence v. Reid,* 490 U.S. 730 (1989).[13] And the *Reid* factor test which comes from that case has been applied to creative works outside of writing and comic art such as software, sculpture and screenwriting by federal courts[14] In the Ken Penders case, the big factors under the *Reid* test were if Ken Penders was an employee and if there was a work for hire agreement where Ken signed away his rights to his characters.[15] Ken Penders was an independent contractor which was not disputed between the two parties so the only question was if he signed a work for hire agreement which transferred over the rights as otherwise he retained

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[12] Dirk Vanover, *Heroes For Hire No More: Rethinking The Presumption That Comic Books Qualify As A Work-Made-For-Hire Under The Copyright Act of 1978*, ABA Ent. & Sports Law., Feb. 1, 2024, https://www.americanbar.org/groups/entertainment_sports/publications/entertainment-sports-lawyer/winter-2024/comic-books-qualify-workmadeforhire-under-copyright-act-1978/.
[13] *Community for Creative Non-Violence v. Reid*, 490 U.S. 730 (1989)
[14] *Aymes v. Bonelli*, 980 F.2d 857 (2d Cir. 1992) and see, *Carter v. Helmsley-Spear, Inc*., 71 F.3d 77 (2d Cir. 1995) *Horror Inc. v. Miller*, 15 F.4th 232 (2d Cir. 2021)
[15] *Inside Ken Penders's Alleged Work for Hire Agreements with Archie*, Last Minute Continue (Oct. 10, 2010), https://lastminutecontinue.com/news/inside-ken-penderss-alleged-work-for-hire-agreements-with-archie/.[](https://lastminutecontinue.com/news/penders-on-archie-sonic-copyright-case-its-not-over/)

them under the law.[16] This was not a dispute of law but a case where there was a dispute of fact over an alleged work for hire agreement that Ken Penders was said to have signed with both sides accusing each other of lying.[17] However, while this is another dispute between a comic book creator and a publisher, the main focus of this article goes deeper to show just how different the United States is to copyright law for creators than Japan. In Japan, a "work for hire"agreement can never transfer certain copyrights from the author to a third party:

> Once an author has a valid Japanese copyright, he or she can exclude others from using the copyrighted work in most cases.21 Japan splits the copyright owner's rights into two categories—moral and economic. 22 Moral rights include the right to make the work public, the right to determine the indication of the author's name, and the right to preserve the integrity of the work.23 According to Article 59 of the Japanese Copyright Act, "[m]oral rights of the author shall be exclusively personal to him and inalienable."24 They are non-transferrable and will always belong to the author of the work; the author can never be "erased" even if the copyrighted material was created as a work-for-hire.25 In contrast, Japanese economic rights from copyright include, among others, the right of reproduction, distribution, translation, public transmission, exhibition, and exploitation of a derivative work.26 Unlike moral rights, economic rights are transferrable to a new owner after registering the copyright and paying a fee.27 This system of rights helps to give potential future creators an incentive to put their time, money, and effort into pursuing creative and artistic endeavors whether or not they are creating the work for profit.[18]

This "moral rights" vs "economic rights" concept is shared with French copyright law which also protects the creator from having their copyrights signed away to corporate interests.[19] American and French copyright laws have a similar origin in Lockean theory of property rights but would end up diverging with the American system over time which inherits its less friendly structure for creators from England.[20] However, the question of if comic book writers are indeed even creating intellectual property which qualifies as "work made for hire" to begin with even when signed over is beyond the scope of this article. However, what is within the scope of this

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[16] Id.
[17] Id.
[18] Emily Schendl, *Japanese Anime and Manga Copyright Reform*, 15 Wash. U. Global Stud. L. Rev. 631, 673 (2016)
[19] *Understanding Copyright Protection Laws in France*, Generis, https://generisonline.com/understanding-copyright-protection-laws-in-france/ (last visited Aug. 6, 2025).
[20] Jane C. Ginsburg, *A Tale of Two Copyrights: Literary Property in Revolutionary France and America*, 64 Tul. L. Rev. 991, 1000 (1990).

article is what are the consequences for publishers when the work isn't deemed "work made for hire" after the factors test outlined by *Reid* is followed; especially for a licensed comic series that ran for over 20 years based on a huge intellectual property like *Sonic the Hedgehog.* The rights of a copyright owner for derivative or licensed works are as follows and either Sega through Archie Comics or Ken Penders had these rights for the characters and stories the latter created during his run on the Sonic and Knuckles comics:

> A derivative work is "a work based upon one or more preexisting works…in which a work may be recast, transformed, or adapted."A common example of a derivative work is a movie adaptation of a famous novel, such as Harry Potter. Authors will often assign some of the rights to their works to other parties. J.K. Rowling, for example, is the author and copyright holder of Harry Potter, but she assigned the right to create movie adaptations of her novels to Warner Brothers. Because the right to create derivative works belongs exclusively to the author, only she can legally create derivatives of her copyrighted works, unless she chooses to transfer that right to someone else.[21]

In defense of Sega and Archie Comics, it is possible, especially for the former, that they considered the comics to be a derivative work of the *Sonic the Hedgehog* series and thus they retained copyrights automatically.[22] However, that has never been the standard legal interpretation of copyrights for the American Comic Book industry since creators often join long running books for which they own the characters they create along with their stories for properties owned by the broader publisher or licensed by the publisher.[23] If the comic writers and artists are creating something new they own the rights to it under American copyright law.[24] This is why work for hire contracts are an industry standard to prevent creators from owning their own creations. Ken Penders originally believed that Sega's initial contract with Archie Comics

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[21] Rachel Morgan, *Conventional Protections for Commercial Fan Art Under the U.S. Copyright Act*, 31 Fordham Intell. Prop. Media & Ent. L.J. 514, 525 (2021).
[22] *Ken Penders: The Weirdest Sonic Writer*, YouTube (July 23, 2022), https://www.youtube.com/watch?v=hCni6I47E0M. Where a former Archie Sonic editor suggested to Archie that maybe they should be having work for hire language added to paystubs for creators like Ken Penders.
[23] Kirkland & Ellis, *Copyright, Trademark & Right of Publicity Law for Comic Book Creators* (Comic Book Legal Def. Fund, July 24, 2024).https://www.kirkland.com/-/media/content/kirkland-ip-primer-for-comic-book-creators.pdf
[24] Id.

automatically transferred his characters over to Sega but he would find out this was not in fact the case.[25]

III. ARCHIE SONIC AND THE KEN PENDERS LEGAL CASES INVOLVING ARCHIE COMICS AND SEGA

Archie's *Sonic the Hedgehog* began life as a four issue mini series. The comic was in development during the same time period as ABC children's television show *Sonic the Hedgehog* which would affectionately become known as "Sonic SatAM" after the Saturday morning time slot on ABC where it aired.[26] The show is traditionally reported as the brainchild of Pat Allee and Len Janson and the two writers together with their team created a from scratch fictional universe based on the *Sonic the Hedgehog* video games series on the Sega Genesis.[27] The show ran for two seasons from 1993 to 1995 and became a cult classic with a rabid fan base around to this day centered primarily on the characters of Princess Sally Acorn and the rest of the freedom fighters.[28] *Sonic the Hedgehog* by Archie Comics also debuted in 1993 but unlike the cartoon series the comics just kept going far into the future with the same cast of characters

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[25] *Sonic HQ News Archive*, Sonic HQ, https://web.archive.org/web/20190219103243/http://www.sonichq.net/nostalgia/shqclassic/news/archive/News/7_99.htm (Feb. 19, 2019) (last visited Aug. 6, 2025).
Ken Penders claims he was misinformed which considering Sega and Archie Comics never produced this document in the legal cases involving Ken Penders lends credibility to this claim.

[26] Was SatAM Based off of the Sonic Comics by Archie?, Saturday Morning Sonic (last visited July 24, 2025), https://www.saturdaymorningsonic.com/faq/archie/
And see *Why Was SatAM Cancelled?*, Saturday Morning Sonic (last visited July 24, 2025), https://www.saturdaymorningsonic.com/faq/why_satam/.

[27] *Ben Hurst on SatAM*, Saturday Morning Sonic (last visited July 24, 2025), https://www.saturdaymorningsonic.com/features/ben_hurst/. Ben Hurst became the face of Sonic SatAM during his lifetime which Penders contests in his own personal account of SatAM's origin: "Ben Hurst's involvement with SatAM. He was a writer and associate story editor, but his name was nowhere to be found on the SatAM series Bible I received for reference when the show was on the verge of cancellation. The names listed on the series bible were Pat Allee and Len Janson. in all my research of Ben's involvement with SatAM, he wrote about a third of the episodes produced and was an Associate Story Editor at most, but he did not write the bible establishing the series nor was he ever a key player. Pat & Len & Director Dick Sebast were the pivotal players in establishing the series." Regardless, Ben died way too soon and he is dearly missed by many, especially in the Sonic SatAM fan community. For more information about Ben Hurst and the cult following Sonic SatAM has had since it went off the air, see, *Ben's Vision - The Lost Sonic SatAM Third Season/Film (FULL DOCUMENTARY)*, YouTube, https://www.youtube.com/watch?v=QNJpExBkhZk&t=3829s (Oct. 15, 2023).

[28] *History of FUS*, Sonic SatAM (last visited July 24, 2025), https://www.sonicsatam.com/about-fus/history-of-fus/

throughout most of its run and was at the time of its cancellation the longest running comic book series based on a licensed property.[29]

Ken Penders joined the comic shortly after it was launched in 1993 with him submitting his first story pitch on October 6, 1993 to Archie and Sega for approval.[30] He became a major writer for the comic and was the responsible for writing what was intended to be a possible conclusion to the series in Sonic #50 in June of 1997.[31] The comic by the late 90s had already lasted much longer than anticipated and Ken Penders was given the go ahead by Archie Comics and Sega to launch *Knuckles the Echidna* which ran from 1997 to 2000.[32] During this period until the late 2000s after Ken left Archie Sonic, Sega took a very hands off approach with both comic series which allowed the writers for the comic which included Ken Penders, Michael Gallagher, Karl Bollers, Scott Fulop, Dan Slott to take their Sonic SatAM base but kept adding original content and even stuff like *Sonic Underground*[33] and *Sonic the Hedgehog (OVA)*[34] as well as adapting the Sonic games as they came out during the comics run from *Sonic 3 and Knuckles* to *Sonic Adventure 2*.[35] A prime example of this for *Sonic the Hedgehog* comics was in Issue #125 when the comics contained a special letter from the Creator of Sonic, Yuji Naka then President of Sonic Team in Sega of Japan HQ, which barely mentioned the comics at all despite

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[29] Anthony Couto, *Excl: Archie Comics' Sonic Team Reuniting on Cosmo Revival*, CBR (Sept. 20, 2017, 3:25 PM), https://www.cbr.com/excl-archie-comics-sonic-team-reuniting-on-cosmo-revival/.

[30]Ken Penders, *Sonic the Hedgehog History from My Perspective*, Ken Penders (May 19, 2024), https://kenpenders.com/sonic-the-hedgehog-history-from-my-perspective/.

[31] Sonic the Hedgehog: Issue 50, Hedgehogs Can't Swim (July 15, 2016), https://hedgehogscantswim.blogspot.com/2016/07/sonic-hedgehog-issue-50.html. And see, *I Interviewed the Most HATED Man in the Sonic Fandom*, Matttt - Comic & Manga History, YouTube (June 9, 2024), https://www.youtube.com/watch?v=xzor44qgKnA&t=329s.

[32] *Knuckles the Echidna (Archie, 1997 series)*, Grand Comics Database, https://www.comics.org/series/13258/.

[33] Karl Bollers, *Zone Wars: A Tale of Two Hedgehogs*, Sonic Super Special, no. 10, at 27 (Archie Comics July 1999)

[34] Karl Bollers, *Altered States*, Sonic the Hedgehog, no. 101, at 1 (Archie Comics Sept. 2001).

[35] Bobby Schroeder, *The Lawsuit That Reshaped Sonic the Hedgehog Comics*, N.Y. Mag.: Intelligencer (Feb. 11, 2020), https://nymag.com/intelligencer/2020/02/the-lawsuit-that-reshaped-sonic-the-hedgehog-comics.html. and see David the Lurker, *How Archie Played the Games: Part Two of Floating Islands*, Sonic Retro (Mar. 7, 2011), https://sonicretro.org/2011/03/07/how-archie-played-the-games-part-two-of-floating-islands/. Lastly, see long Sonic Comics reviewer Daniel Drazen, *Sonic #98 Review* (July 2001), https://www.andrews.edu/~drazen/s98.txt.

the occupation being the special 125th issue of the comic showing how little attention Sega of Japan paid to the comic outside of being a promotion for the Sonic games.[36]

Sega's hands off approach from the start of the creation of Sonic SatAM and the Archie Sonic comics resulted in some very compelling original stories as well some almost unbelievable communications issues from Sega corporate. For example, the Archie Sonic Comic writers had to import *Sonic Adventure* for Dreamcast in order to get even a grasp of what the story was about as Sega of America never supplied a copy of *Sonic Adventure* to Archie's writing room even though they asked the comic to adapt the game's story.[37] Due to the lack of guidelines from Sega Corporate, the comics were basically free to do what they wanted within very loose limits.[38]

In 2006 Archie Comics and Ken Penders both decided to make a change and left the Archie Sonic Comics under pressure from Sega of Japan[39] and Sega of Japan would take more

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[36] cvgwjames, *Letter from Yuji Naka in Archie Sonic issue 125*, DeviantArt (Jan. 31, 2022, 6:00 PM), https://www.deviantart.com/cvgwjames/art/Letter-from-Yuji-Naka-in-Archie-Sonic-issue-125-905569871.

[37] u/JaxerGaming, *Fascinating Insight on Sega's Relationship with Archie in the 90s and 2000s, from Ken Penders of All People*, Reddit (May 13, 2024, 10:36 PM), https://www.reddit.com/r/SonicTheHedgehog/comments/1crk9mt/fascinating_insight_on_segas_relationship_with/. The Arc as you can imagine was a huge mess which many fans of the comic dislike as seen by posts on the Sonic Stadium fan forum. See. Pix Collie, *A Question Regarding Archie Sonic Adventure Era*, Sonic Stadium (Mar. 7, 2025, 2:54 PM), https://www.sonicstadium.org/forums/topic/36834-a-question-regarding-archie-sonic-adventure-era/.

[38] For example when they decided to make Sonic's planet Mobius a future earth that had been nuked by aliens see Dreadknux, *Boller's Sonic #125 will reveal the True History of Planet Mobius*, Sonic Stadium (May 16, 2003), https://www.sonicstadium.org/news/comics/bollers-sonic-125-will-reveal-the-true-history-of-planet-mobius-r1155/ although part of this was somewhat from the Sonic SatAM lore of Dr.Robotnik and his nephew Snively Robotnik see: *Ben Hurst, Behind-the-Scenes*, Sonic Epoch (2025), https://sonicepoch.com/?content=hurst.

[39] *Ken Penders*, Internet Archive: Wayback Machine (Jan. 4, 2006), https://web.archive.org/web/20060104082712/http://www.kenpenders.com/. Ken Penders provides his reasoning for why he left the comic book in 2006 and what his relationship with Sega of America was at that time: " I thought a change was needed as the book was coming under pressure from Sega of Japan corporate and I was unhappy with the pay rate I was getting from Archie Comics as I thought they wanted to move on to newer and cheaper creators who I had mentored in Ian Flynn and Dawn Best. I was also working on getting a Sonic movie project off the ground and wanted to pursue my professional relationship with Sega of America outside the constraints of being the lead writer for the comic book. This project which I worked on with Larry Houston who spearheaded FOX-TV's X-MEN never got off the ground due to the tragic death of my friend Sega of America Licensing manager Robert K. Leffler. As well as Marvel providing Sega's new licensing team a different direction which also never went anywhere shortly after Robert's untimely death. I also wanted to pursue other opportunities in commercial art which I did on FOX-TV's KING OF THE HILL and for the SONIC SATAM complete series boxset where I drew the box art." See, Releases, Saturday Morning Sonic (last visited Mar. 27, 2007), https://www.saturdaymorningsonic.com/information/releases/. And see, Ken Penders, IMDb (last visited Aug. 16, 2025), https://www.imdb.com/name/nm2492989/.

control over the series[40] And that would have been the end of it if there had been legal work for hire agreements. However, there were no valid work for hire agreements held by Archie Comics for several of their Archie Sonic writers and artists as shown by the results of the Ken Penders case.[41]

Despite this, Archie and Sega had been acting for years like they held the copyrights for the stories, concepts and most critically, characters had been transferred over to Sega like the Sonic SatAM cast of characters which originated alongside the comic and which would have been typical for any comic based on a licensed property.[42] The first example of Sega thinking they owned these characters was the case of Athair, a character created by Mike Gallagher, who then appeared in an episode of Sonic Underground in 1999 without any notice to Mr. Gallagher or the other creatives at Archie Sonic.[43] This would happen again in a much more serious capacity when Sega released *Sonic Mega Collection* on November 12, 2002 for the Nintendo Gamecube.[44] As part of this collection which contained most of the Sonic the Hedgehog games

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[40] *Just went through the big list of restrictions the Sonic comic has. Is it good?,* GameFAQs: Sonic Forces Message Bd. (July 31, 2016, 7:00 PM), https://gamefaqs.gamespot.com/boards/193360-sonic-forces/74095282 This resulted in some awkward phrasing starting in the #230s era of the comic according to some but all of these mandates have only ever been alleged by fans who grew up with the comics under different editorial directions.

[41] Bobby Schroeder, *The Lawsuit That Reshaped Sonic the Hedgehog Comics*, N.Y. Mag.: Intelligencer (Feb. 11, 2020), https://nymag.com/intelligencer/2020/02/the-lawsuit-that-reshaped-sonic-the-hedgehog-comics.html.

[42] Having worked in a few corporate department legal departments as in house counsel. Seeing how Sega of America's in-house legal department viewed all of this as it developed since they were an innocent party dealing with the fallout from one of the companies they licensed the Sonic Series out to would have been interesting. Sega probably thought they had the same rights under the law as they did for the similarly long running Sonic the Hedgehog ice cream bar's commercial art also from the 1990s .PatMac *The Many Releases of The Sonic The Hedgehog Ice Cream Bar w/ Gumball Eyes*, YouTube (Aug. 28, 2017), https://www.youtube.com/watch?v=4e9Y3mO6an0. This ice cream bar is still sold and can be found at various ice cream trucks across the United States from Ice Cream Trucks who buy the character ice cream bars from Blue Bunny: Blue Bunny Sonic the Hedgehog Bar, Sweetheart Ice Cream, https://sweetheartcecream.com/product/blue-bunny-sonic-the-hedgehog-bar/

[43] Mike Gallagher, *Southern Crossover: Part Two*, Tails Miniseries, Nov. 1995, at 1 (Archie Comics).
, *"Flying Fortress," Sonic Underground* (Marc Boreal, François Hemmen & Daniel Sarriet dirs., DiC Entertainment, Oct. 1, 1999).
and conversations with Ken Penders in the past about the creatives having no notice that Athair was going to appear on Sonic Underground.

[44] *Sonic Mega Collection* (Sonic Team dev., Sega, Nintendo GameCube, 2002).

released on the Sega Genesis was, as a bonus feature, a collection of all of the Archie Sonic comic covers released up to Sonic issue #115 plus a full issue of the comic in *Sonic's Firsts*.[45]

However, the most blaring example outside of the covers and the one which broke the camel's back was *Sonic Chronicles: The Dark Brotherhood,* a Nintendo DS game released in 2008. The game was an RPG and took a lot of inspiration from all over the Sonic franchise and especially the Western Sonic canon.[46] Ken Penders created many notable characters for the Sonic and Knuckles comics including Geoffrey St. John, Elias Acorn, Sonic's parents Jules and Bernie among many others. However, it was the lore and characters from the Knuckles comics such as Julie Su, the Dark Legion and the Brotherhood of Guardians that Mr. Penders was best known for during his time with Archie. *Sonic Chronicles* took heavy inspiration from two of the three above categories in creating a character named Shade who bares a striking resemblance to Julie-Su outside of coloration and the Dark Legion concept with the Nocturnus Clan being a similarly cyberpunk inspired bunch of evil Echidnas that were banished and trying to escape an alternate dimension:[47]

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[45] *"Sonic Mega Collection," Archie Sonic Wiki*, https://archiesonic.fandom.com/wiki/Sonic_Mega_Collection (last visited June 29, 2025). Per conversations with Ken Penders, the Archie creative team was given no notice of this and he did consider legal action but by the 2010s his lawyers told him he did not have a case although this is scant record of this lawsuit threat outside of this thread on the Sonic Stadium forum which is anecdotal: Spin Attaxx, *The Lara-Su Chronicles and Ken Penders Topic - READ PAGE 164, POST 4096*, Sonic Stadium (Mar. 13, 2014, 2:58 PM), https://www.sonicstadium.org/forums/topic/18097-the-lara-su-chronicles-and-ken-penders-topic-read-page-164-post-4096/page/7/.Regardless, nothing ever came from it lawsuit wise even though the game was released up until 2007 when it was ported to PC and these latter ports under the name Sonic Mega Collection plus included issues up to 139 which was most of the pre Ian Flynn run on the comic which started at Sonic issue 160. *Sonic Mega Collection Plus*, Giant Bomb, https://www.giantbomb.com/sonic-mega-collection-plus/3030-12297/releases/ (last visited July 25, 2025). In Sega's defense, if they thought they owned the material it is not surprising that they included it within their licensed TV show *Sonic Underground* or in their video games. Like with Republic Pictures in the 1940s with Captain America, the internal workings of the comic book industry and how copyrights worked for the comics, was likely alien to them. In both of these cases where creators end up getting hurt, it is due to how the industry, including Archie Comics, handled these situations as part of an ongoing cultural problem with the American Comics Industry going back to the early 20th century.

[46] This game remains the first and so far only game to use "swat bots" which were a staple of Sonic SatAM and Archie Sonic for years, in a Sonic video game: *Swat Bot*, Sonic News Network, https://sonic.fandom.com/wiki/Swat_Bot (last visited July 25, 2025).

[47] Stan Hogeweg, *Sonic Chronicles: The Dark Brotherhood Was BioWare's Attempt to Innovate the Sonic Franchise Before Frontiers*, Game Rant,

Shade on the left from Sonic Chronicles and Julie-Su from the Knuckles Comics on the right showing the similarities between the two characters. Julie-Su was a very popular character in the Knuckles Comics and mainline Sonic Comics as she was mainstay from the 1990s until the reboot in 2012 as well as Knuckles' girlfriend. It is not surprising that Bioware took inspiration from the comics when creating a female echidna who was important to the plot of Sonic Chronicles.

Nocturnus Clan from Sonic Chronicles on the left and the Dark Legion from the Knuckles Comics on the right showing the similarities between the two groups of evil Echidnas centered on technology.

https://gamerant.com/sonic-chronicles-dark-brotherhood-bioware-rpg-franchise-innovation-frontiers/ (Dec. 23, 2021).

After the game was released, fans of his pointed out the similarities between the storyline of the game and his Knuckles Comics.[48] According to a 2010 post on the Sonic HQ Forum, Ken Penders stated that in December 2008, he contacted Victor Gorelick, editor-in-chief of Archie Comics, requesting the return of original artwork and copies of any agreement he may have signed relating to his freelance work.[49] Penders claimed Gorelick informed him that no such documents existed.[50] He further noted that he followed up multiple times via telephone and

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[48] nz17, *Thoughts on the Story*, BioWare Forums (Oct. 13, 2008) (on file with author). The text of that forum post is as follows as Ken Penders saved it as part of his lawsuit: "It's obvious that Jay Turner, the writer of Sonic Chronicles, did his homework. The story is well-written and contains good humor and more serious moments, as well as several references and homages to Sonic media from the past. But when test time came…… and when essay time came. He copied off Ken Penders." The post goes down to breakdown from this fan's perspective how the game's plot took from the comics Ken Penders wrote. For Ken Penders, it was what pushed him to assert his rights to his characters.

[49] *Re: Ken Penders Claims Rights Issues to Some Major Archie Sonic Characters*, Sonic HQ (Dec. 7, 2010, 6:47 PM), https://sonichq.net/mobius-forum/knothole-village/ken-penders-claims-rights-issues-to-some-major-archie-sonic-characters/paged/3/. Ken's reflections on how this all went down from his perspective confirm in part what was posted on Sonic fan forums from his perspective: "One notable event occurred in July 2006 at the San Diego Comic-Con. While I was away from my table in Artists Alley, my domestic partner Bernadette Shahin and my son Stephen Penders were sitting at my table when they were approached by someone who represented themselves as working on a video game project for the BioWare company. This person wanted to gauge my interest in working on a Sonic-related project. They gave this person my card and told them I would be back soon, but this person never returned, nor did I ever receive a phone call. It wasn't until September of 2008 that two events occurred that would have a profound effect on my future. The first were the emails and phone calls I received from various individuals congratulating me that my work was part of the video game SONIC CHRONICLES. Obviously, I was taken aback as this was news to me. I would soon find postings on the BioWare website explaining how characters and story material featured in the video game were based off of my work. (I would later discover a BioWare promotional video having the game developers explain how Sonic was a rich IP character with added backstory and characters from a variety of sources outside the video games. In one shot, 3 covers from the Archie SONIC series were displayed onscreen including one that featured my work.)" This video can be seen in the interview with Ken Penders and other Archie Sonic writers found at supra at 30.

[50] Ken's perspective on his side of his legal fight is as follows: "Around the time of Sonic Chronicles, Archie began to reprint the early issues of SONIC THE HEDGEHOG in their new SONIC ARCHIVES series. It didn't take long for Volume 3 to hit the stands, the first of many volumes after to reprint my work. By that point, everyone I knew was telling me to speak to a lawyer, which seemed so surreal as I never envisioned ever needing a lawyer except for real estate transactions and a will. So I began calling around, and every lawyer I spoke with asked 2 basic questions. Did I sign any work-for-hire documents? And had I registered any of my copyrights with the US Copyright Office? If I could answer "no" to the first question and "yes" to the second, they would be happy to speak with me. Absent that, the lack of interest on from the lawyers I spoke with was very noticeable. My friend Larry Houston knew people, and it was he who steered me in the direction of Copyright & Trademark attorney Michael Lovitz. Michael listened as I told my story, his mouth agape when he heard the answers to my questions, especially when I told him I had not signed any work-for-hire documents, Archie had no work-for-hire language on their pay invoices and no one who worked on the SONIC series when I did signed any WFH contracts either. It was Michael who recommended I contact ACP (Archie Comics Publications) to see what if any documentation I may have signed was in their possession. He told me to report back within a month the results of my request. As you recounted, I did indeed contact Victor Gorelick via email and phone calls. He only responded to my initial requests as I was also asking for the return of original art from my last assignment for them. A month later, no art was ever returned nor did I receive any further word." In fairness to Archie Comics, it is possible they found a copy of the contract later after digging

email, seeking written confirmation of the contract's non-existence, but Gorelick did not provide such documentation.[51] This conversation was absolutely critical since contractors, unless they sign some sort of work for hire provision, retain their copyrights to their created works and thus *Sonic Chronicles* and Shade could arguably be considered derivative works of the copyrights held by Ken Penders and not Sega through Archie Comics.[52]

In 2009, Ken Penders went to the copyright office and copyrighted his stories, characters and concepts, writing in an official statement in 2010 after most of his copyrights were approved:

> As of April 21, 2010, the U.S. Copyright Office finally began certifying my copyright claims (which I initially filed beginning back in January 2009) on every single story I ever wrote, penciled or both for Archie Comics. As a result, I am now officially recognized by the U.S. Government as the owner of every single SONIC and KNUCKLES story I ever created (well, almost every one right now, but it will be "all" shortly, as soon as the Copyright Office finishes with the last few claims.).[53]

In late 2010, Archie Comics filed a lawsuit against Ken Penders in the Southern District of New York claiming that there was a work for hire agreement but that the original burnt down in a fire and that his actions were tortuous interference with their contract with Sega of

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through their files but they admitted that they did not have the original. Ken Penders provided several affidavits from editors at Archie Comics during his time there from 1993-2006 that no such work for hire agreements were ever sent to creators like Ken Penders and Penders maintains to this day that it was a fake. The reader can make up their own mind.

[51] Id.

[52] 17 U.S.C. § 201(a), the author of a work is the initial owner of the copyright. For independent contractors like Ken Penders and the Archie Sonic creators, the contractor is considered the author of the work unless a written agreement explicitly transfers ownership or establishes a work-for-hire relationship. Without a work-for-hire provision or an assignment agreement, the contractor retains the copyright, and the hiring party may only receive a limited, implied license to use the work for its intended purpose which in this case would be the distribution of the first run of the comic and not reprint rights or the rights to use characters and concepts going forward.

[53] Rich Johnston, *Ken Penders Claims Sonic the Hedgehog Rights*, Bleeding Cool, https://bleedingcool.com/comics/recent-updates/ken-penders-claims-sonic-the-hedgehog-rights/ (July 10, 2010).

America.[54] Ken Penders responded with counterclaims against Archie Comics[55] and filed his own lawsuit against Sega of America and Electric Arts, the owners of Bioware that made Sonic Chronicles: the Dark Brotherhood, for copyright infringement.[56] After a series of legal wrangling including the case against Sega of America and Electric Arts being dismissed without prejudice with the Judge in the case requesting that Ken Penders wait until the Archie case was over before refiling.[57] The moment of truth came on July 16th, 2012 when the judge in the case denied

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[54] *Archie Comic Publ'ns, Inc. v. Penders*, No. 10-CV-6538, 2010 WL 4780934 (S.D.N.Y. Nov. 23, 2010). Ken Penders claimed throughout the litigation based on his conversation over the phone with Editor-in-Chief Victor Gorelick that this copy was a fake by Archie Comics produced after the fact. Archie Comics has treated some of their most famous creators such Dan DeCarlo very poorly so it is within the realm of possibility based on past actions by Archie Comics: Michael Dean, *Supreme Court Rejects DeCarlo Appeal*, The Comics Journal (2001), https://web.archive.org/web/20091004155455/http://www.tcj.com/aa02ws/n_decarlo.html. Here are Ken Penders thoughts on his case for the readers of this article to discern who is telling the truth between the two parties: "As a result of my experience and research, I can state unequivocally that the Judicial system generally favors big business interests over the creators. Judge Berman for the longest time considered me nothing more than a disgruntled employee until I made my case showing I was never an employee of ACP and presented him with affidavits from numerous freelancers who submitted work to ACP in general and the SONIC series specifically who clearly stated they never received or signed any WFH documents. It also helped that former SONIC editors Scott Fulop and Justin Gabrie submitted affidavits stating they never sent any WFH documents on ACP's behalf to any freelancers." and see *DeCarlo v. Archie Comic Publications, Inc*., 127 F. Supp. 2d 497 (S.D.N.Y. 2001) for the treatment of past creators by Archie Comics. Archie Comics today is still poorly run as seen by their two co-CEOs suing each for hundreds of millions dollars, see, Bill Heltzel, *Archie and the Gang Go to Court*, Westfair Online (Feb. 10, 2020), https://westfaironline.com/courts/archie-and-the-gang-go-to-court/.

[55] *Archie Comic Publ'ns, Inc. v. Penders*, No. 10 Civ. 8858 (RMB) (MHD), 2012 WL 2880578, at *2 (S.D.N.Y. July 16, 2012). It is important to Ken Penders to note that Archie Comics sued him first and not the other way around which is supported by the case law history in this legal saga.

[56] *Penders v. Sega of Am., Inc*., No. 2:11-cv-08173-ODW (E), 2012 U.S. Dist. LEXIS 202355, at *1 (C.D. Cal. Feb. 23, 2012).

[57] Id. Ken Penders ignored this and refiled which was unsuccessful. See *Penders v. Sega of Am., Inc.*, 543 F. App'x 657 (9th Cir. 2013). His side of why he refiled his case when the Judge told him not to is as follows: "Initially, I didn't want to sue SEGA as I felt I could work out a deal with them due to previously having a good relationship with Sega of America, but it soon became apparent that I'd have no choice but to sue SEGA as it became clear they were relying on Archie to completely shut me down. The reason I would end up having to refile the lawsuit was the result of the Judge's initial decisions on my 1st filing. SEGA initially argued my lawsuit against them could not proceed until my case with Archie was resolved in order to determine who actually owned the copyrights to my works.The Judge agreed with that assessment, but my lawyers were confused by the Judge not placing a toll on the case (if I'm using the language correctly). In other words, the Judge should have frozen the case where it stood at that point so I wouldn't have lost anything when the case resumed. Because the Judge had not taken such action, my lawyers were concerned the Statute of Limitations would kill any claims if I were successful in claiming ownership of my copyrights. At the time of filing and refiling, we're talking May - June 2011. I wouldn't have a solid claim to my copyrights until Archie & I signed a settlement agreement on June 27, 2013. Thus, when my case against SEGA & EA was heard in October of 2013, because the game was not being sold in stores as a brand-new release or a digital download, due to tolling not placed on the case back in 2011, there were no damages to claim. So the case was dismissed with one key victory for me. The case was dismissed without prejudice, meaning if SEGA or anyone else attempted to release SONIC CHRONICLES or create a sequel game to it, I was free to revive my claims. Thus, to date, no one has attempted either scenario and it's highly unlikely anyone ever will." If that is the reason Sega has

Archie's motion for summary judgment and set the case for trial unless a settlement was reached.[58] This was always a dispute of fact case with one of the sides being wrong on a matter of fact and not a matter of law which is why Archie's motion for summary judgment was denied because this case if not settled had to be decided by jury as the trier of fact.[59] On January 2nd, 2013, Archie *Sonic the Hedgehog* Issue 244 was published and Archie made the decision as part of the settlement talks to jarringly yank out all characters created by Ken Penders from the book and its ongoing "Endangered Species" story arc which unfortunately, those characters were the center of which made their removal painfully obvious to any long time reader of the comic.[60]

Sega of America, whose authority was needed to settle the case with Ken Penders by Archie Comics as Sega was the license holder for the *Sonic the Hedgehog* Franchise, their reaction to this was likely that of a confused party which could not believe the incompetence of their partner in Archie Comics and their legal team.[61] A settlement was reached by July of 2013

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not re-released *Sonic Chronicles* or made a sequel for the game is a matter of speculation but that is Ken Penders' point of view.

[58] Id.

[59] *What Is the Meaning of Trier of Fact in Legal Cases?*, Legal Clarity, https://legalclarity.org/what-is-the-meaning-of-trier-of-fact-in-legal-cases/ (last visited Aug. 7, 2025).

[60] Ian Flynn, *Endangered Species, Part Two: Extinction Event*, Sonic the Hedgehog, Feb. 2013, at 1 (Archie Comics) and see Tristen Oliver,*Chatter Suggests Archie, Not Penders, Pulled Plug on Disputed Comic Chars*, TSSZ News (Jan. 15, 2013), https://web.archive.org/web/20130120125801/http://www.tssznews.com/2013/01/15/chatter-suggests-archie-not-penders-pulled-plug-on-disputed-comic-chars/. Ken Penders provides his own take on the process of the characters being yanked out of the book: "The reason for the abrupt change had more to do with the injunction motion we filed to stop Archie from releasing further volumes of the SONIC and KNUCKLES ARCHIVES, as well as the use of my characters. My lawyers sent Diamond Distribution a cease & desist letter as part of those efforts. Needless to say, Archie wasn't happy with us for doing that."

[61] The lawyers for Archie Comics before the denial for summary judgment were considered to have done a poor job for their client Archie Comics in the press from around tha time, see Rich Johnston, *Archie Desperate To Settle, But Can't Without Sega – The Latest In The Ken Penders Sonic Comics Case*, Bleeding Cool (May 9, 2013), https://bleedingcool.com/comics/archie-desperate-to-settle-but-cant-without-sega-the-latest-in-the-ken-penders-sonic-comics-case/ When the judge is on the record saying to the new counsel "THE COURT: So are you saying prior counsel blew it?" you did not do a good job for your client. Ken Penders provides an inside scoop on how badly Archie lawyers performed here: "Originally, we shouldn't have been in this predicament. According to another attorney handling my case, Archie's original lawyers had advised the company to settle, based on their knowledge of a lack of documentation regarding work-for-hire documents within the company. Without any documents, Archie had no claims to my copyrights. But one of the attorneys was ambitious and advised the people at Archie Comics he could make the case go away, betting if he was aggressive enough, he could get me to fold like a cheap suit when I

between Archie Comics and Ken Penders which allowed for both sides to proceed with the characters and stories created by Ken Penders for their respective projects.[62]

However, Archie Comics and Sega decided to completely reboot the Archie Sonic Series continuity rebooted after *Sonic the Hedgehog* issue #247 through taking advantage of an upcoming crossover with the *Mega Man* comics, also produced by Archie Comics, in order to reboot the mainline Sonic Comics continuity.[63] And while the rebooted series did have some following, it would be cancelled a few short years later as Archie Comics lost the rights to the Sonic Series to IDW which has the license to this day.[64] The extent of Ken Penders' ownership of characters from the Sonic Comic is contested and it shows how unsettled property rights are for creative works as opposed to tangible property.[65] The Supreme Court missed out on a real

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saw the cost of what I was getting into." There is a good lesson here for attorneys, especially in house counsel attorneys, on being too aggressive and not settling cases which fester.

[62]Jason Berry, *An Interview with Ken Penders*, Sonic Stadium (July 22, 2013), https://archive.sonicstadium.org/2013/07/an-interview-with-ken-penders/.

[63] Archie *Sonic the Hedgehog* Issues #251-252 showcases how they decided to reset the universe, see: *Sonic & Mega Man: Worlds Collide*, Sonic Wiki Zone, https://sonic.fandom.com/wiki/Sonic_%26_Mega_Man:_Worlds_Collide#Aftermath (last updated Jan. 18, 2025).Thankfully, one of the last pre-reboot works was the official lore book for the canon up to that point which was a highly valuable resource which almost did not see the light of day, see Ian Flynn, *The Complete Sonic Comic Encyclopedia* (Archie Comic Publ'ns 2012).

[64] Jude Terror, *IDW Picks Up Sonic Rights Two Days After Sega Dumped Archie #DramaAlert*, Bleeding Cool (July 21, 2017), https://bleedingcool.com/comics/idw-picks-sonic-rights-two-days-sega-dumped-archie-dramaalert/ Ken Penders contests that Sega is the one which pulled the license but that in fact Archie Comics did not want to indemnify Sega under a "Penders clause" and had more successful projects such as RIVERDALE going which meant Sonic meant less to the company. RIVERDALE was a tremendous success for Archie Comics, see Rosie Knight, *RIVERDALE Producer Jon Goldwater Lets Us in on the Secret History of the Archie-Verse*, Nerdist (July 23, 2018), https://nerdist.com/article/riverdale-jon-goldwater-talks-archie-history/ so Penders' claim has some merit just looking at the situation logically from Archie Comics c-suite's perspective. Sega clearly still wanted a comic book about Sonic which is why IDW got the rights shortly after Archie Sonic ended.

[65] For example, Ken Penders has taken a lot of criticism by Sonic fans for claiming to own "Robo-Robotnik" which is a robot version of Sega's Dr. Ivo Robotnik Spin Attaxx, *The Lara-Su Chronicles and Ken Penders topic - READ PAGE 164, POST 4096*, Sonic Stadium: Sonic Chat (Mar. 13, 2014), https://www.sonicstadium.org/forums/topic/18097-the-lara-su-chronicles-and-ken-penders-topic-read-page-164-post-4096/page/517/.[](https://www.sonicstadium.org/forums/topic/18097-the-lara-su-chronicles-and-ken-penders-topic-read-page-164-post-4096/). However, there is precedent that Ken Penders may very well be correct in this interpretation of the law based on the precedent in *Gaiman v. McFarlane*, 360 F.3d 644 (7th Cir. 2004) was held to be the legal owner of "Medieval Spawn" which was a medieval version of Told McFarlane's Spawn character. Under that precedent Ken Penders may well own the robot version of Robotnik which matters a lot since that Robotnik could appear in Ken Penders' new stories despite being based on a Sega Sonic character. Ken Penders served as his attorney's paralegal on his case in order to save on legal costs and what he found for precedent mainly came from the music industry just because of how little there is on this area of the law.

opportunity to make law in this area when Disney through Marvel settled with the Kirby heirs after the Supreme Court took an interest in their case.[66] So this is a really undefined area of the law and the meantime Ken Penders has asserted his copyrights to the fullest extent including licensing the character of Anti-Sonic, an antiverse version of Sonic the Hedgehog to Rush Comics.[67] Time will tell if Sega contests Ken Penders ownership claims over Robo-Robotnik and Anti-Sonic but until that time, he is legally using these characters based on the admittedly the few legal precedents in this unsettled area of the law.[68]

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[66] *Kirby v. Marvel Characters, Incorporated*, SCOTUSblog, https://www.scotusblog.com/cases/case-files/kirby-v-marvel-characters-incorporated/ (last visited Aug. 16, 2025). And see Jeffrey Trexler, *Should the Kirby Family Have Settled?*, The Comics Journal (Nov. 21, 2014), https://www.tcj.com/should-the-kirby-family-have-settled/.

[67] Rush! Comics, *Scourge The Speed Demon [Cancelled Comic]*, Internet Archive (Oct. 28, 2023), https://archive.org/details/Scourge-The-Speed-Demon. This project was cancelled due to fan backlash r/SonicTheHedgehog, *Update: Scourge Comic Breaks Any% Speedrun Record*, Reddit (Nov. 19, 2021, 12:00 AM), https://www.reddit.com/r/SonicTheHedgehog/comments/qxqo77/update_scourge_comic_breaks_any_speedrun_record/. Ken Penders claim to own Scourge the Hedgehog through his claimed ownership of Anti-Sonic (the former a transformation of the latter character starting in Sonic #160) has been met by criticism by fans but it is legally sound based on the Medieval Spawn precedent and Supra at 65. Ken also makes the point of comparison with Bucky Barnes and the Winter Soldier revamp as an apples to apples for thinking about ownership of Scourge.

[68] Ken Penders provides an interesting note on the litigation process from the eyes of an average person going against large corporations. He provides the following in the hope that it could help prepare and encourage more everyday people to assert themselves when they have a legal claim against corporate power:
"When friends and family began telling me I needed to speak with a lawyer, my first question was one probably every creator who ever found themselves in my position asked, "Which lawyer? How does one find someone who has a clue about what I'm experiencing and hoping to achieve? And it's a very pertinent question. Most lawsuits end in settlements because one side - usually the corporation - sees bigger problems on the horizon if the case does go before a jury in court, and would much rather cut their losses with a confidential settlement in which the opponent - usually the individual creator - receives a settlement, generally more than the corporation wants to agree to, but less than the consequences they would face if the case ends with a decision against them. Archie responded to my attorney asking for royalties with a fax of what was allegedly a contract signed by me granting them all rights to my work. When Michael called me asking for an explanation, I pointed out several problems with the document:There was no mention of Sonic, Knuckles and/or SEGA anywhere at all in the document There was no mention of any consideration, i.e., any amount I would have received in payment for the work. The contract claimed ownership of ALL my work past, present and future. Most egregiously, my signature appeared on a document I never signed. As I pointed out to Michael, a company that's been in the graphic reproduction business for over 80 years would have the ability to produce an authentic-looking document that wasn't actually authentic. But as Michael consulted with a number of attorneys and legal scholars, it became apparent legal precedent had been set regarding the acceptance of xerox copies as a substitute for authentic documents. However, For the first time in the 18 years history of the series up to that point, the risk of serious liability going forward with the series made SEGA hesitant to renew the deal and gave me leverage which made Archie Comics take some very aggressive actions such as suing me for hundreds of thousands of dollars. Venue was also a fight between us and travel expenses plus finding attorneys to appear pro hac vice is a big weapon large companies can use against former employees to assert corporate power. However, what wasn't immediately apparent but would become so down the line was Archie's attorney not thinking through the counter-moves against his actions through a real arrogance. In filing his motion with the intent of promising financial ruin if I didn't come to an agreement whereby my copyrights were transferred back to Archie, he committed two serious errors that would work against him.

One of the reasons a creator filing a lawsuit against a corporation like Archie Comis is at a serious disadvantage from the beginning is the burden of proof is placed on them to prove how the other party has wronged them. If their presentation to the Judge lacks specificity and a chain of evidence showing how the other party committed the infringement, the chance of dismissal in the early goings is quite high. The reason I had the burden initially was due to the alleged contract. Judges tend to favor corporations over individuals, so I had to overcome the disgruntled employee narrative. Also, everyone Michael consulted with about Archie's alleged contract - other lawyers, law professors at prestigious Universities, legal scholars - didn't offer any hope of fighting the document, much less suppressing it. Thus, we would be continually moving forth trying to figure out the means to combat the existence of what we considered to be a blatant forgery. We may have been behind the eight ball, but Michael correctly saw that if Archie was not agreeable to negotiation, depositions and discovery could possibly shine a light out of the tunnel we were in if this document was indeed a fake which I knew in my heart to be the case.

The other error - though we didn't realize it at the time, and surprisingly, neither did the ambitious attorney - was a request for a jury trial. Again, based on prior experience dealing with others in my situation, Archie's aggressive young attorney reasoned I would sooner sign over my copyrights rather than go through a costly, protracted legal battle. Artist Dan DeCarlo was fighting a legal battle against Archie in the late 1990s - early 2000s regarding his creations SABRINA THE TEENAGE WITCH and JOSIE AND THE PUSSYCATS. SABRINA was being licensed by ABC-TV for a television series while JOSIE was being licensed by Universal for a film. Dan had worked freelance for Archie for over 40 years and felt he was due a share of the profits.

Dan's problems were that his lawyer had attempted to fight the battle at the state level due to the fact his work was created under the 1909 Copyright Act and it was only recently he even attempted to file for Copyrights to his work. Thus, when Dan admitted on the witness stand he hadn't contested any of Archie's licensing of his creations over the previous 30 or so years, the Judge sided with Archie's lawyers when they raised the issue of estoppel. By not contesting Archie's previous licensing of his work, Dan was in effect allowing Archie to believe they - and not he - owned the work in question. This would come back to haunt Archie when I raised the issue with my lawyers with regards to the reprinting of my work. I had challenged Archie immediately to be paid a royalty check the first time my work had been reprinted. Since they never reprinted my work again during the next 6 years or so I continued to submit work, I brought this up to my attorneys who agreed it was a relevant claim to hit Archie over the head with in court. I should point out that in acting as my attorneys' defacto paralegal, while I was saving myself a lot of money providing the research and documentation, it also illustrated the disparity between a corporation with massive resources and the average creator, who generally didn't. In setting up the depositions, it was agreed my attorneys would depose publisher Jon Goldwater, Archie VP Mike Pellerito, Archie VP/Editor-In-Chief Victor Gorelick and the CFO working for Archie at the time. (Their current one only dates back to 2015.) Archie's lawyer would list only me as the party to be deposed from their side. (If I was Archie, I would've sought to least depose the people who used to work for them who were now acting as agents on my behalf.) I flew out with my attorneys for the depositions, providing insight where I could, despite having to depart the room several times due to Archie insisting on attorneys-only privileges.After that, both sides would file motions and counter-motions with many not yet resolved as the October court date approached. While Archie had turned over many documents, including the initial contract signed with SEGA which addressed the issue of new characters created for the comic book series. (That one clause alone would've resulted in some very interesting fireworks in the courtroom had we made it that far.)

Then, in early September, one of the attorneys assisting Michael in Los Angeles filed a response to one of Archie's motions a day late, and Archie's lawyer immediately filed for sanctions, which was granted.

While Michael filed a motion opposing the sanctions, he still used the sanctions as a means to effect change, allowing Archie to believe we were at a disadvantage. As he contested the sanction, Michael had been figuring out how to transition my case to a skilled litigator, as he did not have the requisite courtroom experience. There was also the issue of outstanding motions that hadn't been addressed by the Judge, creating much uncertainty for both sides. Eventually, Michael brought on Phillip Daman, an attorney he had previously worked with. Phil and I clicked immediately and after discussing Phil's terms with my wife while he was jetting off to NYC, he had a signed agreement and retainer from us when he landed.

When Phil arrived in court that morning for the pre-trial hearing with a court date only a week away, Phil seemed to be the only one ready to go to trial, taking both Archie's lawyer and Judge Berman by surprise. Both had assumed this would be the point I would throw in the towel due to the costs involved. To put matters in perspective, every litigator Michael spoke to wanted a deposit of $100K before they would even step foot inside the court. Phil, on the other hand, wanted the experience of an intellectual property battle, and was willing to work with us where finances were concerned.

Phil would never see the inside of a courtroom as a result of my case, but that wasn't from lack of trying.

In the weeks and months ahead, it became clear that neither Archie's lawyer nor the Judge wanted the case to go to trial. The Judge saw the case as a waste of time when there were other more pressing issues awaiting to be addressed, whereas Archie's lawyer saw my insistence for a jury trial as a signal for him to plead for the Judge to decide the case. By this point, the Judge had pulled both sides into his chambers separately to read each the riot act. In my case, seated directly across from Judge Berman behind his desk, with my attorneys standing alongside me, he looked me directly in the eyes while addressing the room that he would immediately have the bailiff arrest and imprison anyone he caught lying on the stand. He may have been addressing the room, but he was clearly watching me for any signs of hesitation on my part. While I kept my cool and presented a calm demeanor, the Judge admitted the case came down to the contract. Did Archie have an enforceable document or not? If not, I was the owner of the copyrights. If so, I was out of luck, facing a lot of debt and the loss of my body of work.

The Judge would subsequently set another trial date, and before that occurred, he provided the space for both sides to engage in further settlement talks. The Judge then set another trial date, demanding filings that would justify his ruling a trial was even necessary. That was when I began contacting former Archie freelancers and employees for affidavits. I also contacted other industry professionals including former editors I submitted work to for affidavits testifying to industry standards at other companies. These affidavits would show a pattern of other companies having freelancers sign formal documents that stated a clear transaction, i.e., the freelancer was contracted to provide a specific skill set involving a set number of pages to be turned in on a specific date. The work to be done was always for a specific title and issue number. In return, the freelancer would receive x-amount per page that work was completed on. At the time, most companies offered bonuses if sales exceeded a certain level or the work was reprinted. The pattern was so pervasive that Archie's business practices clearly stood out from everyone else's.

When I was accumulating the affidavits, I was also advising those who supplied one they would most likely be called on to testify in court. This is called getting one's ducks all in a row. This was now Spring of 2012, and we were assigned a court date of August 2012. Basically, when everyone arrived in court that August, Judge Berman wanted us to have one last attempt at a settlement before rendering a decision about going to trial. My lawyers by now were more than convinced the preponderance of evidence was weighted heavily in support of my claims, but there was still Archie's document that had to be dealt with. Phil, his associates Jeffrey and Andre along with myself, met in a room with Archie's attorney. Phil offered to meet Archie's attorney halfway if he was willing to also meet with Phil in the middle. When that didn't happen, we reported to the Judge who dismissed us and said we would hear from him before the end of the day. We went to lunch and discussed what had just occurred when Phil received an email on his cellphone. Judge Berman had ruled we had provided enough evidence to support a question of fact for the jury to decide. While the contract no longer held the weight Archie's lawyer had believed it did, we were still faced with making a case to the jury, who in all likelihood had no idea of copyright law, intellectual property or even how the comics industry treated creators. The executives at Archie Comics were too incensed to care about any of that, and immediately fired their lawyer. Judge Berman suggested both sides go through mediation with an uninvolved third party. My attorneys advised me to agree to the process, as we could always end up back in court if I wasn't happy with the proposals. Meanwhile, Archie's went back to their previous legal counsel, who assigned attorney Josh Paul to handle the proceedings. Paul would immediately attempt to derail the proceedings by stating he just came onto the case and the previous attorney had yet to turn over his files. But Judge Berman wasn't accepting any excuses and set a date for mediation, which all sides agreed to. Besides the lawyers, both myself and Archie publisher Jon Goldwater had to be available throughout the proceedings so anything agreed to could be signed off on. I was in San Francisco with my domestic partner when the mediation proceedings began on the east

IV. LAWSUITS BY OTHER ARCHIE SONIC COMIC WRITERS OVER THEIR CREATIVE RIGHTS

Like with the facts underlying the Supreme Court's ruling in *McGirt v. Oklahoma*, the case may have been applicable under the facts of the case to one tribe, but its ramification ended

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coast in NYC. Phil and Jeffrey were in one room while Archie's attorneys were in another, with the mediator going back and forth between the parties. Phil was insistent I would not sign off on anything that didn't include an admission I owned my copyrights outright. The discussions went on for several hours and it wasn't until Bernadette and I were on the road heading for home that we received the call from our attorneys along with the mediator. Basically, a Term-sheet agreement outlining 5 points had been worked out. If agreed to, it would close out the case with Judge Berman, leaving Archie's attorneys and mine to fill in the blanks of that agreement. My initial reluctance to sign off on the agreement was my insistence that SEGA should be part of the resolution. Since neither the Judge or the Mediator - and most certainly that was the last thing Archie wanted - agreed with my assessment, I eventually signed off on the agreement when Bernie and I stopped for dinner along the way home. Archie's attorneys entered the Agreement with Judge Berman, who signed off on it, effectively stating the case was now closed. Only it wasn't. During the next couple of months as we went into 2013, Archie wasn't agreeable with any of the details we were submitting to complete the term-sheet agreement. If anything, they saw everything we proposed as a poison pill in their dealings with SEGA. Matters came to a head when I insisted we needed to go before Judge Berman and tell him Archie wasn't dealing in good faith. By May 2013, Josh Paul was admitting in open court that Archie Comics was on the hook for SEGA's legal fees and thus felt they needed to come up with a legal theory why I didn't own my copyrights. By this point, Judge Berman said to attorney Paul that if Archie had a problem with previous legal representation, they could sue their previous attorney. As he saw it, we came to court stating we thought we had a binding deal, which Judge Berman admitted he thought so as well. He then directed Josh Paul to get in touch with SEGA's legal counsel (Fenwick & West LLP) to ensure their participation in working out the details of the term-sheet agreement. The last thing either Archie's attorneys or Archie's executives wanted was anyone representing SEGA's interests being anywhere near the room where the details would be worked out, so Josh Paul reached out to my attorneys to work out an agreement that did not involve anyone from SEGA. I myself was dubious anything would be accomplished, but Phil reassured me that if we couldn't work things out, we would go back to Judge Berman and have him enforce SEGA's representative being in the room. It would take 24 straight hours of discussion, the first 16 of which nothing of any value was accomplished. When Phil made it clear he was either walking out with an agreed-upon deal of getting ready to file a motion for a court hearing the next morning, that's when Archie's side got serious. I received a faxed document signed by Archie's publisher Jon Goldwater, upon which I affixed my signature and had it faxed to the attorneys. Archie never lived up to all the conditions on that term-sheet agreement, leaving a few issues unresolved, much to SEGA's detriment. During my legal fight, I joined some friends who were industry professionals for dinner. At that gathering, there were at least a couple of attorneys in the group taking part in the discussion. One lawyer told me Disney never takes any lawsuit seriously until someone has actually filed a lawsuit with the court, reasoning the person making the claim either has documents or money or both in order to file" This note from Ken was very long but it is an excellent showcase of the effort one man had go through to assert his rights and why corporations get away with bloody murder so often because it is so hard to fight them in the American legal system.

up impacting the other Five Civilized Tribes in addition to Creek (Muscogee) Nation.[69] And the question was at the time that if Ken Penders legally had the copyrights to all of his work for the Archie Sonic and Archie Knuckles comics, what about Michael Gallagher, Karl Bollers, Scott Fulop and the other writers before Ian Flynn took over?[70] The answer is that yes they retained their copyrights with some such as Karl Bollers confirming that information in a 2014 twitter post.[71] Ken Penders has repeatedly stated on X that the previously mentioned Athair is owned by Michael Gallagher and under that logic so would the rest of the characters created by Mr. Gallagher during his tenure on Archie *Sonic the Hedgehog*.[72]

However, the only other writer to actually sue Archie Comics and Sega after these two companies settled with Ken Penders was Scott Fulop. In August of 2016, Scott Fulop, through his company Narrative Ark Entertainment LLC, filed a lawsuit against Archie Comics and Sega

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[69] *McGirt v. Oklahoma*, 591 U.S. 894 (2020) and see Nicholas J. Stamates, *The Aftermath of McGrit and Castro-Huerta: Problems and Possible Solutions Relating to White-Collar Crime in the City of Tulsa*, 55 TEX. TECH L. REV. 535, 536-38 (2023).

[70] Ken Penders pointed out that in addition to the other writers before Ian Flynn, all Archie Sonic Comic artists prior to Tracy Yardley did not sign work for hire agreements and thus the same principles of copyright ownership applied to them as well, see Chris Krol, *Navigating Copyright Issues: A Guide for Cartoonists and Comic Artists*, Toons Mag (Feb. 7, 2024), https://www.toonsmag.com/navigating-copyright-issues-a-guide/. If the Archie Sonic artists signed work for hire agreements is a matter of speculation on Ken Penders' part but it is logical that if they did not have valid agreements for their writers why would they for their artists?

[71] Karl Bollers, Twitter (Aug. 31, 2014, 11:05 PM), https://x.com/KarlBollers/status/506216312058949633?t=bYXEnoGbfm3YaUuvZa93ow&s=19 (last visited July 25, 2025). This is supported by the Copyright office, See, Ken Penders & Karl Bollers, *Sonic & Knuckles in "Turnabout Heroes"*, Copyright Registration No. VA0001726433, U.S. Copyright Office (filed July 9, 2010), https://publicrecords.copyright.gov/detailed-record/voyager_23725183?associatedRecords=Bollers,%20Karl (last visited Aug. 7, 2025).

[72] Ken Penders, Twitter (Jul. 28, 2020, 11:05 PM), https://x.com/KenPenders/status/1288267978417426433 (last visited July 25, 2025). This is also supported by the copyright office: Ken Penders, Karl Bollers, Scott Fulop & Michael Gallagher, *Sonic Super Special Sonic 50 Director's Cut*, Copyright Registration No. VA0001720518, U.S. Copyright Office (filed Apr. 30, 2010), https://publicrecords.copyright.gov/detailed-record/voyager_23622739. And it is not surprising since if there was no work for hire sign over then all of these authors retain their rights under American copyright law: see *Authorship and Ownership FAQ*, Authors Alliance (May 20, 2014), https://www.authorsalliance.org/2014/05/20/authorship-and-ownership-faq/.
and 17 U.S.C. § 106 (2018).

of America, alleging and seeking damages for copyright infringement over the unauthorized use of characters and stories he created for the *Sonic the Hedgehog* comic series.[73]

Scott has created some notable characters for the series including Mammoth Mogul, a Vandal Savage inspired villain who was a mainstay of the Archie Sonic Comics until the reboot[74] Sergeant Simian, Lightning Lynx, Predator Hawk, Flying Frog who made up the *Fearsome Foursome* which were the Sonic Comics version of antagonists to *Knuckles' Chaotix* who debuted in the Sega 32x game of the same name, and Merlin Prower, Tails' uncle from the comics among other characters.[75] Scott Fulop's attorney, noted entertainment law practitioner Neil Burstein wrote the following letter to Archie Comics about they were continuing to infringe on Mr. Fulop's copyrights to his stories and characters:

> It has come to our client's attention that ACP has been or is in the process of making digital reprints of original comics featuring the Fulop works as well as publishing numerous editions – in both paper and digital version – which contain reprints of his stories and include such volumes as the Sonic Archives, Sonic Select, Sonic Comics, Sonic Universe, Sonic Legacy, Super Sonic Digest, Sonic Super Special Magazine and Best of Sonic, to name a few. In additional, most of the characters originally created by Mr. Fulop, and now owned by Narrative, have continued to be used by writers and artists in ACP publications, including advertisements for new titles from the Sonic Graphic Novel library. Further, the aforementioned unauthorized use of the characters and concepts have, in turn, been reprinted in various media and formats including those listed above and others, such as the Sonic Legacy series.[….][76]

As a matter of law, Scott Fulop was in the right but due to the statute of limitations under the Copyright Act to assert ownership, a federal court in New York dismissed his lawsuit for

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[73]Rich Johnston, *Now Scott Fulop Sues Archie Comics And Sega Over Sonic The Hedgehog Characters*, Bleeding Cool (Aug. 8, 2016), https://bleedingcool.com/comics/now-scott-fulop-sues-archie-comics-and-sega-over-sonic-the-hedgehog-characters/

[74]Id. and see *Mammoth Mogul*, Archie Sonic Wiki, https://archiesonic.fandom.com/wiki/Mammoth_Mogul (last visited July 25, 2025).

[75] Id. And see *Fearsome Foursome*, Archie Sonic Wiki, https://archiesonic.fandom.com/wiki/Fearsome_Foursome (last visited July 25, 2025) and *Merlin Prower*, Archie Sonic Wiki, https://sonic.fandom.com/wiki/Merlin_Prower (last visited July 25, 2025).

[76] Shadow, *Lawsuit: Narrative Ark Entertainment vs. Archie and Sega*, Sonic SatAM (Aug. 4, 2016), https://www.sonicsatam.com/2016/08/lawsuit-archie-and-sega-vs-narrative-ark-entertainment/ (last visited July 25, 2025).

damages against Sega and Archie Comics due to lack of ownership since he should have contesting his claim as soon as he learned from Ken Penders that he was entitled to copyright ownership.[77] However, Ken Penders claims that Fulop retains ownership; he was just unable to get damages.[78] Scott Fulop was able to successfully trademarked Mammoth Mogul in 2020[79] and sold merchandise of the character and the Fearsome Foursome briefly in 2021.[80]

Raised in the letter from Scott Fulop's attorney and a critical point was the royalty from Archie and Sega to these comic writers for reprints of their prior work. Archie Comics was late to the reprint game in not starting to really reprint their Sonic comics until late 2006 when all of the old writers before Ian Flynn were mostly out the door when the company printed *Sonic Archives Volume 1* on November 22th, 2006.[81] These reprints had already been running for nearly a decade before *Sonic Archives Volume 22* came out on February 25th, 2014 and with it the first time that any of the prior writers had been formally acknowledged on the covers.[82] This continued in most of the other reprints after Sonic Archives Volume 22 in the *Sonic Archive Series* so it is likely that as part of the deal worked out with Ken Penders, he and the other writers from that era started receiving royalties and back royalties for their work that was reprinted.[83]

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[77] *Narrative Ark Entertainment LLC v. Archie Comics Publications, Inc.*, No. 16CV6109 (VB) (S.D.N.Y.) and see, Dirk, *A Sonic Victory for Archie*, Comics Lawyer (Sept. 22, 2019), https://www.comicslawyer.com/2019/09/a-sonic-victory-for-archie.html (last visited July 25, 2025).

[78] This appears to be backed up based on the records from the copyright office: *The Fall of Sonic! Part I, Part II, and Part III and 11 Other Titles*, Copyright Registration No. V9933D641 (Mar. 8, 2016), https://publicrecords.copyright.gov/detailed-record/voyager_29860147?associatedRecords=Fulop,%20Scott%20D.

[79] *Mammoth Mogul*, Registration No. 5,147,888 (Jun. 24, 2016), https://trademarks.justia.com/870/83/mammoth-87083129.html.

[80] LostHedgie, twitter (Oct. 26, 2021, 18:17 UTC), https://x.com/LostHedgie/status/1453063217756917768/photo/1 (last visited July 25, 2025, 19:13 UTC) (including image of Mammoth Mogul merchandise listings).

[81] *Coming Comics - November 2006*, Archie Comics, https://web.archive.org/web/20061126234842/http://archiecomics.com/news/coming_comics_november06.htm (archived Nov. 26, 2006, 23:48:42 UTC; last visited July 25, 2025, 19:14 UTC).

[82] *Sonic the Hedgehog Archives Volume 22*, Sonic Fandom, https://sonic.fandom.com/wiki/Sonic_the_Hedgehog_Archives_Volume_22 (last visited July 25, 2025).

[83] As part of his settlement with Archie Comics and Sega, Ken Penders is limited in what he can reveal as formally part of the settlement as a legal matter. However, some basic assumptions can be made such as in this case that these writers began to see royalties when their names were added to the reprints.

V. THE IMPACT OF THIS LITIGATION OVER 13 YEARS LATER ON THE SONIC THE HEDGEHOG FRANCHISE AND WHAT THE KEN PENDERS LAWSUIT MEANS FOR COMIC BOOK CREATOR RIGHTS IN THE UNITED STATES UNDER AMERICAN COPYRIGHT LAW.

It has been 13 years since Archie Comics lost their motion for summary judgment against Ken Penders.[84] The Archie Sonic Comics that started that lawsuit were cancelled nearly 10 years ago with the Sonic the Hedgehog comic license transferred to another company in IDW. Regardless, the impact of this litigation is lingering over the Sonic the Hedgehog franchise to this day and is resulting in some very unusual scenarios under American copyright law but that would be common under Japanese or French copyright law for the moral rights creators have for their creations. For example, Ken Penders has threatened to sue over the depiction of the echidnas in the recently released 'Sonic the Hedgehog 2' movie by Paramount.[85] No lawsuit ever materialized but the threat of one is ever present because as Ken Penders put it he is responsible for so much of the western Knuckles the Echidna lore which would be his moral rights for these characters and concepts outside of Knuckles himself under the copyright laws of Japan and France: "Without a good reason from explaining why Knuckles was truly the last of his kind as well as Sega's silence on my establishing the building blocks of an Echidna civilisation, I would embrace the world-building far beyond anything I previously attempted."[86]

It is hard to argue against the co-author of this article here since the only lore for Knuckles and the Echidnas before Ken Penders started working on the Knuckles Comics was *Sonic 3* on Sega Genesis and *Knuckles Chaotix* on the Sega 32x which was not much outside of Knuckles himself. The Knuckles Comics were wrapping up by the time *Sonic Adventure* was

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[84] Supra at 40.
[85] Rhiannon Bevan, *Controversial Sonic Writer Ken Penders Claims Sonic 2 Used His Characters, Is Seeking Legal Advice*, TheGamer (Apr. 22, 2022), https://www.thegamer.com/controversial-sonic-writer-ken-penders-claims-sonic-2-used-his-characters/.
[86] Ken Penders, *Knuckles Omnibus Volume One* (Floating Island Productions 2025).

hitting the western market in September of 1999 which did develop the Echidnas more. And even some of the Knuckles lore such as his iconic hat from the *Sonic the Hedgehog* OVA that Penders did not create, was still heavily influenced by Ken Penders in the western market due to his time on the comic and through storylines such as *Mobius 25* years later.[87]

The results of these Archie Sonic related lawsuits caused Sega to completely shed the Sonic SatAM based lore after the Archie Comics were canceled in addition to the Archie Sonic Comics rights which are in a black box even for stories and characters Sega completely owns.[88] The only exception as of 2025 being a small freedom fighters cameo featuring Sally Acorn and Bunnie D'Coolette in a non-canon Sonic Forces tie-in comic released in 2017.[89] That was until, perhaps, an upcoming release that is going to be available sometime this year on mobile devices in *Sonic Blitz.*[90] The game came out for a test run in the Philippines and data miners were able to find a huge list of potential characters, many of them from obscure games like *Tails' Adventure* on Sega Game Gear, since being confirmed in test footage that has made it out of the

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[87]Ken Penders, Looks look #SEGA is using my design of Adult Knuckles for their game. I'm flattered., X (June 14, 2025, 2:28 PM), https://x.com/KenPenders/status/1933969794388447395 (last visited July 25, 2025). For a depiction of adult Knuckles from Mobius 25 years later check out the cover of Sonic #131 and the reader can make up their own mind.

[88] *Udon Announces Archie Mega Man Reprints, Sonic Crossover Issues Currently Excluded Due To "Rights Limitations"*, Sonic Stadium (Apr. 7, 2025), https://www.sonicstadium.org/news/comics/udon-announces-archie-mega-man-reprints-sonic-crossover-issues-currently-excluded-due-to-rights-limitations-r2876/ (last visited July 25, 2025).
The Sonic SatAM characters might have a way into the current comic by IDW since Sega considers the game they appeared on the Sega Genesis *Sonic Spinball* "canon" now according to Ian Flynn. Sally4All (@all_4sally), X (Aug. 30, 2022, 3:37 AM), https://x.com/all_4sally/status/1564457203540447233/mediaViewer?currentTweet=1564457203540447233¤tTweetUser=all_4sally [https://perma.cc/XXXX-XXXX].

[89] Jason Berry, *A New Sonic Forces Comic Arrives: Looming Shadow*, Sonic Stadium (Oct. 28, 2017), https://archive.sonicstadium.org/2017/10/a-new-sonic-forces-comic-arrives-looming-shadow/. Bunnie's maiden name and name from Sonic SatAM is Bunnie Rabbot but it was changed when she married a fellow Sonic SataAM character Antoine D'Coolette in Sonic the Hedgehog issue #174, see *Bunnie D'Coolette (Pre-Super Genesis Wave): Marital Challenges*, Sonic News Network, https://sonic.fandom.com/wiki/Bunnie_D%27Coolette_(Pre-Super_Genesis_Wave)#Marital_Challenges (last visited July 6, 2025).

[90] *Sally Acorn, Modern Mighty, and More Discovered in Sonic Blitz Game Files*, Sonic City (June 3, 2025), https://sonic-city.net/2025/06/03/sally-acorn-modern-mighty-and-more-discovered-in-sonic-blitz-game-files/. The Sonic Show, *It's Official, All These Sonic Characters Are Back...*, YouTube (June 8, 2025), https://www.youtube.com/watch?v=bRA1ARIcZjY.

Philippines.[91] Among those characters who were in the datamine leak but have yet to be seen are the aforementioned Bunnie D'Coolette and Sally Acorn from Sonic SatAM and the Archie Sonic Comics, Sonia and Manik from *Sonic Underground*, and Cosmo from the *Sonic X* anime series among many others.[92] Time will tell if these leaks are legitimate pertaining to future characters to be released or some other motive by the *Sonic Blitz* development team.[93]

Ken Penders meanwhile, has used the settlement to publish not only his own original work, *The Lara-Su Chronicles Beginnings* in 2024[94], as continuation to his *Mobius 25 years later* storyline from Archie Sonic without the Sega characters, but also reprints of the Archie Sonic comics in collaboration with the other former Archie Sonic creators since as previously stated they own the rights to those works.[95] In June of 2025, Ken Penders released KNUCKLES OMNIBUS VOLUME ONE which collected his stories that featured Sega Sonic characters in them including Sonic and Knuckles.[96] This release is being followed up, Trump tariffs depending, with Ken Penders releasing under his label Angel Island Productions, SCOTT SHAW!'S SONIC DAYS, featuring the stories of former Sonic Writer Scott Shaw in a deal

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[91] Id.
[92] Id.
[93] An interesting example is when the developers for Sonic & Sega All Star Racing included art from a fan artist of Sonia from Sonic Underground by mistake.
Sonia, Easter Eggs, http://www.eeggs.com/items/56834.html (Mar. 9, 2010).
[94] The Lara-Su Chronicles: Beginnings is a very interesting product as this original work begins with a reprinting of the Mobius 25 years later storyline contained in Archie Sonic issues 131-144 with a major edit towards the end to tie it into the new material Ken Penders produced for this new series: *Now Taking Pre-Orders for The Lara-Su Chronicles: Beginnings*, Ken Penders (last visited July 25, 2025), https://kenpenders.com/product/now-taking-pre-orders-for-the-lara-su-chronicles-beginnings/.
. The compilation also includes the cover from Archie *Sonic the Hedgehog* #131 which is oddly enough, the first Sonic comic I ever owned as my late father Brian Stamates, bought it for me after it caught my attention in some comics rack in a local gas station in southeastern Wisconsin back when I was living in West Bend around 2003 as a child. The Comparable settlement of the Penders one with Sega is the one Nintendo reached with Philips back in the day which resulted in Nintendo licensed characters Mario and Link appearing in games produced by Philips for their CDI console see, Eric Grundhauser, *The History of the Philips CD-i, the Would-Be PlayStation Ancestor*, Atlas Obscura (Mar. 25, 2016), https://www.atlasobscura.com/articles/the-history-of-the-philips-cdi-failed-playstation-ancestor.
[95] Supra at 64
[96] *I Was Misinformed, Thus, The KNUCKLES OMNIBUS Promo*, Ken Penders (June 12, 2025), https://kenpenders.com/i-was-misinformed-thus-the-knuckles-omnibus-promo/ (last visited July 25, 2025).

worked out between them.[97] Ken has paved new ground for creative rights with the other Sonic Creators as he has prepaid for their royalties up front as part of reprint their stories.[98] The legacy of this lawsuit in particular exposes the poor economic conditions America's comic book writers are subjected to by the industry. Ken Penders in his 40 years of experience in the industry put it very starkly in a recent blog post on his website:

Rich Johnston recently revealed how much a penciler starting out at Marvel and/or DC Comics would make, figuring an artist penciling a full monthly book could make over $38K a year, plus sales from selling original art as well as commissions from fans. What he doesn't state or talk about is the fact Marvel and DC represent the pinnacle of page rates for creators, ignoring the fact most creators make less – far less in most cases – working for other publishers.[99]

Comic writers, despite developing some of the world's most famous franchises in the world, are barely paid peanuts in the United States. In contrast, your average Japanese *Mangka* is in such a better financial position: "So rough annual income in the case of a weekly and monthly magazine would be:Published weekly: (¥5,500 × 20) × 48 = ¥5,280,000 [~ $51,920], Published monthly: (¥5,500 × 20) × 12 = ¥1,320,000 [~ $12,980]"[100]. And they get real royalties for their manga which they benefit from considerably.[101] and as previously noted, France is similar to Japan with the "moral" right and "economic" right concepts under their copyright law which is much better for creator rights: "In France, the author is a "separate" legal status that gives him an "inalienable" right, that is to say that one cannot lose. Even if one signs a contract that specifies

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[97] *The Latest on Scott Shaw!'s Sonic Days*, Ken Penders (July 14, 2025), https://kenpenders.com/the-latest-on-scott-shaws-sonic-days/ (last visited July 25, 2025). Scott Shaw was one of the founders of what became San Diego Comic Con: Peter Larsen, *Comic-Con 2022: Scott Shaw Says There's No Place Like SDCC – and He Should Know, He Helped Start It*, Orange County Register (July 24, 2022), https://www.ocregister.com/2022/07/24/comic-con-2022-scott-shaw-says-theres-no-place-like-sdcc-and-he-should-know-he-helped-start-it/.

[98] *Comic Book Page Rates & A Living Wage*, Ken Penders (Mar. 22, 2025), https://kenpenders.com/comic-book-page-rates-a-living-wage/ (last visited July 25, 2025).

[99] Id. And see Rich Johnston, *Big Two Comics Artist Paid by Marvel and DC*, Bleeding Cool (Mar. 17, 2025), https://bleedingcool.com/comics/big-two-comics-artist-paid-marvel-dc/.

[100] Jason Muell, *Ink, Sweat, and Tears: How Much Does a Manga Artist Earn?*, Medium (Sept. 13, 2016), https://medium.com/@jasonmuell/ink-sweat-and-tears-how-much-does-a-manga-artist-earn-c98e1d311e3e.

[101] Id.

it, it is impossible to transfer one's "moral right". So one remains the owner of what one creates."[102] Which as you can expect results in the creators getting a much fairer shake than their American counterparts although compensation is on par with the United States but with a better social safety net.[103]

In contrast, here is how Ken Penders, as an industry veteran, described the situation for US comic creators today:

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[102]On the Flipside Comics, *The European Market*, https://ontheflipsidecomics.com/en/the-european-market/ (last visited July 25, 2025).

[103] Id. And see "And 53% of French comic book authors, according to a 2014 study, earn less than the minimum wage." Rich Johnston, *Who Wants Some Statistics About French Comics?*, Bleeding Cool (Feb. 4, 2024), https://bleedingcool.com/comics/who-wants-some-statistics-about-french-comics/.
However, that does not account for the creators who are highly successful such as the creator of *Asterix*, Albert Uderzo who had a net worth of $50 million at the time of his death in 2020.*Albert Uderzo Net Worth*, CelebrityNetWorth, https://www.celebritynetworth.com/richest-celebrities/authors/albert-uderzo-net-worth/ (last visited Aug. 7, 2025).
By contrast, the co-creators of Captain America and many other highly successful characters for Marvel in Jack Kirby and Joe Simon had $12 million combined net worth when they died in 1994 and 2011 respectively; with $10 million of that belonging to Jack Kirby who had a career as a long time executive at Marvel so most of that wealth did not come from royalties which shows how much of the wealth from these creations goes to the publisher and not the creator in the United States. *Jack Kirby Net Worth at Death: How Much Was Jack Kirby Worth?*, ABTC (Nov. 7, 2023), https://abtc.ng/jack-kirby-net-worth-at-death-how-much-was-jack-kirby-worth/.
Joe Simon Net Worth 2024 – How Much Was The Marvel Comics Legend Worth?,
Explore Net Worth (Jan. 14, 2024), https://explorenetworth.com/joe-simon-net-worth/. In fact, Jack Kirby took a deal from Marvel Comics to side with them in a lawsuit against Joe Simon for Captain America which also explains why he received more money than Simon even though it was not nearly worth as much as the IP for Captain America is worth, one of the many reasons his heirs sued. Sean Howe, *Marvel Comics: The Untold Story*. 77 (2012) and Eriq Gardner, *Marvel, Jack Kirby Estate Settlement: What It Means for Creator Rights*, Hollywood Rep. (Sept. 26, 2014),
https://www.hollywoodreporter.com/business/business-news/marvel-jack-kirby-estate-settlement-735921/.
and see *French Connections - Loved or Loathed: The Ins and Outs of France's Generous Social Safety Net*, France 24 (Feb. 28, 2020),
https://www.france24.com/en/france/20200228-french-connections-loved-or-loathed-the-ins-and-outs-of-france-s-generous-social-safety-net.
The point of all of these links is that French creators have a much better deal than their American counterparts and it is not even close despite both being near minimum wage. And when a creative product really takes off, the French creator benefits at a much higher degree. And looking at Japan for another example, here are the net worths of several famous *mangka*: Petra Kolak, *15 Richest Manga Writers (Ranked)*, Fiction Horizon (May 13, 2025), https://fictionhorizon.com/richest-manga-writers/. The best example from that list is that of *Fullmetal Alchemist* creator Hiromu Arakawa who has a net worth of over $20 million dollars. *Fullmetal Alchemist* is a wonderful story but it is not in the league of *Captain America* in terms of economic value. Joe Simon lived to see the release of the first MCU Captain America movie which grossed $370 million worldwide and solid hundreds of millions in DVD sales: The Numbers, *Captain America: The First Avenger*,
https://www.the-numbers.com/movie/Captain-America-The-First-Avenger#tab=summary. Simon died a few months later worth only $2 million dollars, much of that probably the value of his New York City apartment, after generating countless amounts of money for Marvel Comics and now Disney through his creation. That is simply wrong and America's comic creators deserve better than this.

Other realities younger creators never consider: there is no steady paycheck. Sometimes there's no money because the publisher has cash-flow issues. There's also no health care. Or 401K plans. Forget pensions. As for royalties? What royalties? There would've been no legal battle between Archie and myself had they issued a monthly royalty check of $1.98 before the battle even began, and they couldn't bring themselves to make even that tiniest of gestures. I've yet to hear any creator submitting work to IDW receiving any royalty check.[104]

Further, Ken Penders has provided documented proof that comic book writers from the 80s and 90s are being shorted on their reprint royalties by the publishers and that the trend in comic book contracts has gotten worse for the creatives over the decades:

There has been so much reprinting of old material from the 60's, 70's & 80's as well as other eras, but the only ones profiting are the publishers despite promises made in writing to the creators in exchange for their rights……[105]

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[104] *Moving Forward*, Ken Penders (Nov. 25, 2024), https://kenpenders.com/moving-forward-2/ (last visited July 25, 2025). These experiences were shared by comic writer and artist Don Rosa and were a large part of what drove him out of the industry, see supra at 101.

[105] *Work-For-Hire Contracts Need To Be Re-Evaluated*, Ken Penders (July 16, 2023), https://kenpenders.com/work-for-hire-contracts-need-to-be-re-evaluated/ (last visited July 25, 2025).
Here are Ken Penders' argument for why the current system is the way it is and why that is poor for creators : "When I convinced DC Editor Robert Greenberger to assign me work on his WHO'S WHO IN STAR TREK mini-series, I was also presented my first professional freelance WFH contract. Besides the basics - the details of the assignment and how much I was to be paid per page of pencil art - 2 points really caught my attention. The first was I was signing away all my rights in exchange for financial remuneration. The 2nd point was that the financial remuneration included royalties at a rate of $32 a page for each page reprinted. I didn't think much of this clause at the time as I had yet to see any licensed property outside of STAR WARS sell enough copies to warrant a 2nd printing, let alone a reprint collection. Ironically, it would be this clause that would come back to haunt both DC Comics and creators decades later. When DC started publishing their reprint collections 15 - 20 years ago, material from the 1980s was being passed over because of this clause specifically. There was no way DC could make a profit if they had to pay creators the promised page rates. Creators who worked on licensed titles specifically would learn there was no enforcement mechanism for any publisher who reprinted this material. Thus when various STAR TREK creators approached IDW for royalties as a result of IDW reprinting their DC work, IDW would point to Paramount as the owner of the works and thus the party to deal with. When the creators approached Paramount, they were told they had to take grievances to DC Comics who in turn stated that since they no longer had the TREK license the creators should go back to Paramount." Mr. Penders describes a very insidious game being played on comic creators and there should be some litigation on behalf of these creators for them to get what they are legally entitled to. And that is the problem since these comic creators are mostly not wealthy people, Ken and his domestic partner Bernie being no exception, so they have to think long and hard about the costs of pursuing their rights under the law. This is a prime example of why the United States need to adopt the "Loser pays" model of litigation as the current American system of both sides pay their costs vastly favors the wealthy and powerful over who is actually in the right in the case: Loser Pays Rules or Costs of
Civil Litigation in Selected Jurisdictions, Library of Congress, (Mar. 2006)
https://tile.loc.gov/storage-services/service/ll/llglrd/2019669640/2019669640.pdf (last visited July 25, 2025).

These creatives are who would have been incredibly well off if they had been allowed to benefit from the fruits of their creative efforts like their Japanese and French counterparts. And arguably, the publishers are paying for the fact as the kids today much prefer Manga than traditional US comic books.[106] The treatment of those like the Goldwaters at Archie Comics towards their creators have come home to roost as the traditional American comic books as published by the big companies like Marvel and DC are a media medium in decline.[107] And this has always been the case historically when creators do not have a stake in the success of their creations as "publishers whose policies on copyright do not incentivize creators to produce their best works often find themselves at a competitive disadvantage."[108]

Regardless of publisher reform, the question of licensed comics takes on a new significance. Afterall, an interesting party in all of this which is also mostly innocent of how comic book creators were treated on *Archie Sonic* is Sega of America themselves. Sega is the

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[106] Louis Kemner & Angelo Delos Trinos, *Why Japanese Manga Is More Popular Than American Comics in the West*, CBR (June 22, 2024), https://www.cbr.com/japanese-manga-vs-american-comics-why-more-popular/.
and some hardcore comic book fans such as the host of AT4W Lewis Lovhaug, known professionally as Linkara, take the publisher's side and repeat the accusation that Ken destroyed Archie Sonic as seen in the review of another Ken Penders comic, *The Lost Ones* #1:Lewis Lovhaug, *Ken Penders' The Lost Ones #1*, Atop the Fourth Wall (Sept. 18, 2022), https://atopthefourthwall.com/ken-penders-the-lost-ones-1/.
In Linkara's defense, he admittedly knows nothing about the Archie Sonic Series but just the repeating of the company line in this case is really damaging for creators' rights and so many comic fans or youtube personalities do so without thinking about what they are doing. If Linkara wants to understand what an actual copyright troll is, he should read Professor Michael Goodyear's article on the subject, Goodyear, Michael, *A Shield or a Solution: Confronting the New Copyright Troll Problem* (2020). 21 Texas Rev. Ent. & Sports L. 77, Available at SSRN: https://ssrn.com/abstract=3626507

[107] *DeCarlo and Archie Comics - Part 2*, ComicsLawyer.com (Feb. 17, 2019), https://www.comicslawyer.com/2019/02/decarlo-and-archie-comics-part-2.html
. For how Archie Comics mistreated longtime Creative Dan DeCarlo. And see for Michael Bancroft, *Comic Book Industry Still Struggling to Understand Its Own Demise*, Comicsgate.org (Sept. 27, 2023), https://comicsgate.org/2023/09/27/comic-book-industry-still-struggling-to-understand-its-own-demise/.[](https://comicsgate.org/2023/09/27/comic-book-industry-still-struggling-to-understand-its-own-demise/)
for traditional comics being replaced by Manga and independent publishers like Ken Penders.

[108] Metzroth, Richard P., T*o Be Continued: How Comic Book Copyright Inequity Inspired Industry Innovation and Instilled Instrumentalities for Independence*" (2022). Connecticut Law Review. 555. https://opencommons.uconn.edu/law_review/555 at 283-284. For a prime example of this, see the case of Don Rosa whose love for industry slowly rotted away due to the way Disney treated their creators in terms of lack of royalties for their licensed comics which are much more successful in Europe than in the United States: Don Rosa, *An Epilogue*, Don Rosa Collection, https://career-end.donrosa.de/p/the-epilogue.html (Sept. 2012). Disney also refused to return his art which he produced for the comics which they had no legal right to keep.

party which licensed the Sonic series for over 20 years to Archie Comics and who currently licenses out the rights to IDW for Sonic comics in the present day. Ken Penders had a really good relationship with the late SEGA Licensing Manager Robert K Leffler and was given various opportunities to pitch ideas and work on various sonic projects such as for the cancelled third season of Sonic SatAM.[109]

Sega has been a very friendly steward of the Sonic IP and has a good reputation amongst its fans for tolerating fan projects which is a legal position very different from, for example, Nintendo.[110] And all Sega wanted in all this is a comic produced about their mascot character since it has been a successful venture for the company. However, Sega has at times been very careless with the IP while at the same time missing out some really interesting opportunities from a licensing prospective. For example, Dreamworks after producing *Prince of Egypt* reached out to Ken Penders about the rights to do a movie based on the Knuckles Comics which Sega never acted on.[111] And during the *Sega Genesis* days, Sega created a whole mess with Michael

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[109] *SONIC ARMAGEDDON (Or What A Long Strange Journey It's Been)*, Ken Penders (July 10, 2023), https://kenpenders.com/sonic-armageddon-or-what-a-long-strange-journey-its-been/ and *Robert Leffler Obituary*, Legacy.com (Aug. 9, 2007.), https://www.legacy.com/us/obituaries/sfgate/name/robert-leffler-obituary?id=24667356 (last visited July 25, 2025). for a little bit about the late Mr. Leffier who Ken Penders enjoyed a warm professional relationship with for many years and considered a real friend.

[110] Sega social media manager Kate Chrzanowski put it very nicely on Sega's view point on Sonic fan projects :"So long as no profit is involved, there is usually no issue with y'all using our blue boy to hone your art and dev skills." see, Mary Osborne, *SEGA Has a Surprising Opinion on Fan Games*, SVG (May 12, 2021), https://www.svg.com/408103/sega-has-a-surprising-opinion-on-fan-games/.
Sega has been very tolerant of the of the Sonic SatAM fans and Archie Sonic Fans as various fan projects have gotten off the ground over the years such as Sea3on for Sonic SatAM: History, Sea3on, https://www.sea3on.com/history/ (last visited July 25, 2025).and Archie Sonic Online which is a fan continuation of the pre-reboot Archie Sonic Continuity: Archie Sonic Online, https://archiesoniconline.com/ (last visited July 25, 2025). This approach has been highly successful for Sega and resulted in them getting the talent from the fan game community to make their smash hit Sonic Mania released in 2017: Morgan Troper, *Sonic Mania Is Great Because It Was Made by a Fan*, Portland Mercury (Aug. 28, 2017), https://www.portlandmercury.com/games/2017/08/28/19273528/sonic-mania-is-great-because-it-was-made-by-a-fan
Nintendo and its owned companies like Pokemon Company would sue for things that Sega openly tolerates, see Luke Plunkett, *Pokémon's Former Chief Lawyer On Shutting Down Fan Games & Honeymoon Business Deals* https://aftermath.site/pokemon-lawyer-cease-desist-fan-project-pikachu-movie .

[111] Id.

Jackson's involvement with *Sonic the Hedgehog 3*'s music.[112] The 90s and early 2000s were unstructured in terms of licensing from Sega and it resulted in a very corporate pendulum swinging the other way starting in the 2010s. This was probably necessary in some respects but it resulted in Sonic IP becoming very generic as seen by the strict guidelines from Sega and Sonic team during the 2010s.[113] That was until the Sonic Movies came out by Paramount which restored much of the Western Sonic canon.[114] And in 2024 there was an entire downloadable level based on the Sonic 3 movie in the *Shadow X Sonic Generations* game.[115] Sega should take the opportunity make peace with the former archie creators and incorporate their characters along with the Sonic SatAM characters in *Sonic Blitz* and future projects plus work out a reprinting deal for IDW to reprint the Archie Sonic Series which Ken at least has always been open to licensing his characters to Sega and IDW.[116] If anything, corporations should consider new ways to gauge fan interests as fans may bring surprising perspectives on what part of their brand is actually popular.[117]

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[112] Riordan Zentler, *Game On: Michael Jackson's Involvement in Sonic 3's Soundtrack Finally Confirmed*, The Spokesman-Review (July 1, 2022), https://www.spokesman.com/stories/2022/jul/01/game-on-michael-jacksons-involvement-in-sonic-3s-s/.

[113] Leo Reyna, *Sonic Game Writers Had Little Say in Their Stories*, CBR, https://www.cbr.com/sonic-game-writers-little-say-story/ (Jan. 16, 2024).

[114]Games Learning Soc'y, *Why Is It Eggman and Not Robotnik?*, Games Learning Soc'y (July, 25 2024), https://www.gameslearningsociety.org/why-did-they-stop-calling-him-robotnik/.
The biggest thing is bringing back the Western name of Robotnik over Eggman but the planet Sonic comes from looks a lot like Mobius from Sonic SatAM and the comics.

[115] *Sonic Movie 3 Skin, Level, and Keanu Reeves DLC Coming to Sonic X Shadow Generations*, The Sonic Stadium (Dec. 12, 2024), https://www.sonicstadium.org/news/games/sonic-movie-3-skin-level-and-keanu-reeves-dlc-coming-to-sonic-x-shadow-generations-r2603/.

[116]Ken Penders, *Update on the licensing front*, X (Sept. 28, 2021), https://x.com/KenPenders/status/1442923431096250368.

[117] For example, Donkey Kong Country villain King K. Rool was considered "dead" for years from the Donkey Kong franchise since Nintendo thought no one cared about him. This was the case for King K. Rool until Nintendo ran a fan ballot to see who fans wanted as DLC characters for *Super Smash Bros for WII U and 3DS*. *DK Vine, The Kongversation 622 - King K. Rool Comes Aboard!, YouTube (Aug. 11, 2018), https://www.youtube.com/watch?v=gqYnzuV6Lsw.*
King K. Rool placed so well on the fan ballot that it got Nintendo's, particularly Nintendo of Japan's, attention and he was unexpectedly added to *Smash Ultimate* for Nintendo Switch to great fanfare: Iggy, *Sakurai: King K. Rool Was Very Popular on the Smash Bros. Fighter Ballot*, NintendoSoup (Aug. 23, 2018), https://nintendosoup.com/sakurai-king-k-rool-was-very-popular-on-the-smash-bros-fighter-ballot/.

VII. Conclusion

The Ken Penders lawsuits against Archie Comics and Sega represent a pivotal moment in the history of comic book creator rights under the law. By successfully asserting copyright ownership over his contributions to the Sonic the Hedgehog franchise, Penders exposed the underbelly of the comic book industry's treatment of comic book creatives who make their comics a success as well as raising interesting questions about the nature of comic books based on licensed properties. The resulting reboot of the Archie Sonic series and the transfer of the license to IDW Publishing reflect the profound impact of these disputes on the franchise's narrative and legal landscape plus the lingering infringement possibility that still shows up from time to time like when Sega published a profile on Shade from *Sonic Chronicles* in a Sonic guide book with Ken Penders daring the company to put her back in a Sonic video game.[118]

For the comic book industry, the Penders case serves as a call to action for publishers to adopt clearer and fairer contracts, compensate creators for reprints, and respect the intellectual property contributions made by their writers and artists. For creators, it underscores the importance of understanding their rights under U.S. copyright law and advocating for equitable treatment going forward as the current system is unsustainable as comics are being swamped by their Japanese manga counterparts. As the Sonic franchise continues to change with the decades, with potential revivals of past obscure characters in projects like *Sonic Blitz*, Sega should look to their past in bringing back fan favorite characters such as the SatAM characters plus those

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Not only that, but King K. Rool was also the twist villain for the recently released Nintendo Switch 2 blockbuster, *Donkey Kong Bananza*. see: *Sirloin, Donkey Kong Bananza - King K. Rool Makes His Entrance (4K), YouTube (July 16, 2025), https://www.youtube.com/watch?v=rZkxamGYmag.*
where the lore is literally that he was under a rock for a decade, arguably, as a nod to his long absence and the fan campaign to bring him back. King K. Rool is clearly in Nintendo's future plans now due to that fan ballot and media corporations really should, as a matter of policy, find ways to take in real fan feedback. One way that Sega might be able to take in this feedback both for Sonic SatAM and Archie Sonic is to see how Ken Penders' *Mobian Legends* line where he reprints the Archie Sonic and the Knuckles stories endings up selling, as well as how popular fan projects such as Sea3on and Archie Sonic Online end up getting.

[118] *NETLORE EP. 3: Ken Penders*, NETLORE, YouTube (Mar. 13, 2023), https://www.youtube.com/watch?v=vlkWNlD62Pg (last visited July 25, 2025). Around the 1:55:00 mark.

created by Archie Sonic creators like Ken Penders and the rest who still enjoy a following based on sales figures provided by Ken Penders for his reprints and new works.[119] Yes, the Sonic comics were weird, you had Sonic SaAM characters like the evil wizard Naugus fighting modern Sonic characters like Silver the Hedgehog from *Sonic the Hedgehog* 2006 released on the Playstation 3 and Xbox 360, and it was great fun for many Sonic fans both new and old.[120] And these characters could make a King K. Rool like come back if Sega was able to gauge the fan interest in these characters which is something that corporate legal departments should find a way to help their corporate clients such as Sega and Nintendo do while respecting their copyrights to their characters.[121]

As for Ken Penders, the legacy of his case will remain a cautionary tale for balancing corporate interests for companies such as Sega when dealing with licensing out their intellectual property to third parties such as Archie Comics but also a real difference maker for creator rights in the United States in the American Comic Book industry. Ken's hard fought case will hopefully lead to some real reform for the comic book industry that will put these American writers and artists on the same footing as their Japanese and French counterparts.

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[119] Ken Penders is still calculating how many copies of his Archie Sonic and Knuckles reprints he has sold. However, he has sold over 500 copies of THE LARA-SU CHRONICLES: BEGINNINGS at $35 a book. The book itself is a reprint of his Mobius 25 years storyline from Archie Sonic plus a new story featuring his characters.
[120] Paul Cecchini, *Sonic The Hedgehog: Weirdest Comic Moments*, GameRant (May 5, 2020), https://gamerant.com/sonic-the-hedgehog-weirdest-comic-moments/.
and see, Ian Flynn, *Unsung Heroes, Part Three: Occupational Hazards*, Sonic Universe #43, Aug. 2012, at 1 (Archie Comics).
[121] Supra at 115.